

# Official Draft for the Public Hearing of March 26, 2012

## Comprehensive Development Ordinance

### Town of Chesapeake City

March 7, 2012

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## Article 1

### General Provisions

## § 1.1 Title

These regulations shall be known as the Chesapeake City Comprehensive Development Ordinance. They may be referred to herein as the “Comprehensive Development Ordinance”, or this “Ordinance”.

## § 1.2 Authority

The Mayor and Town Council have the authority to adopt this Ordinance pursuant to Article 66 B of the Annotated Code of Maryland.

## § 1.3 Purpose

### § 1.3.1 General Purpose

The purpose of this Ordinance is to protect and promote the public health, safety and general welfare of the residents and citizens of the Town of Chesapeake City. It is a comprehensive and unified set of regulations that govern the subdivision, development, and use of land.

### § 1.3.2 Specific Purposes

This Ordinance is adopted for the following particular purposes:

- Implement policies of the Chesapeake City Comprehensive Plan. To implement the goals, policies, and provisions of the adopted Comprehensive Plan and its subsequent updates.
- Protect the small town character of the Town. To protect and improve upon the small town and historic character of Chesapeake City and the social and economic stability of the existing residential, commercial and other land uses within the Town.
- Promote good planning practice. To promote good planning practice and to provide regulatory mechanisms which include appropriate standards for new development, streamlined procedures for minor development approvals, and enhanced provisions for oversight, inspection, and conformance with approved plans.

- Promote efficient land use and infrastructure. To promote the efficient use of land and the orderly, efficient and responsible development of essential public facilities and services.
- Promote good development practices. To promote development practices which conserve and protect water, energy and other resources and discourage land consumptive, low density, and single-use development patterns which run counter to traditional building practices in the Town.
- Encourage mixed use development and interconnectivity. To encourage mixed use development and interconnectivity between and within developments.

## § 1.4 Severability

The sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable. If any such part is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining parts of this Ordinance.

## Article 2

### Administration and Enforcement

## § 2.1 Roles of Official Bodies

### § 2.1.1 Zoning Administrator

#### A. Establishment

It shall be the duty of the Zoning Administrator to administer and enforce this Ordinance and to take all actions that are required by this Ordinance.

#### B. Enforcement

If the Zoning Administrator finds that this Ordinance is being violated, he/she shall notify in writing the person responsible for such violations, indicate the nature of the violation and order action necessary to correct it. The Zoning Administrator shall:

1. Order discontinuance of the illegal use of land, buildings, or structures;
2. Order removal of illegal buildings or structures or of additions, alterations, or structural changes thereto;
3. Order discontinuance of any illegal work being done; or
4. Take any other action authorized to insure compliance or to prevent violation.

#### C. Issuance of Permits

The Zoning Administrator shall issue permits for the erection, construction, addition, demolition, moving or structural alteration of buildings and structures and for the use of land.

1. No building or other structure shall be erected, moved, added to, or structurally altered, or use of land be changed without a permit authorizing such work.
2. No permit shall be issued except in conformity with this Ordinance.

**D. Notice to Critical Area Commission**

Except as provided herein, when the Town receives an application for any development, subdivision, site plan, rezoning, special exception, variance, or timber harvesting pertaining to land in the Critical Area, the Zoning Administrator shall send official notification thereof and a copy of the application to the Critical Area Commission:

1. The proposed structure is no greater than 250 square feet in size.
2. The proposed structure is a single-family house.

**E. Appeals**

Any person or agency aggrieved or affected by a decision of the Zoning Administrator may appeal such decision to the Board of Appeals per §2.2.6 of this Ordinance.

**§ 2.1.2 Planning Commission**

**A. Establishment**

The Planning Commission shall have the authority to:

1. Prepare and recommend a comprehensive plan for the Town of Chesapeake City and review and update, as needed, the plan at least once every six (6) years;
2. Advise the City Commissioners on all matters relating to the orderly planning and growth of the Town.
3. Prepare and recommend amendments to this Ordinance, including the Official Zoning Map;
4. Review and make recommendations to the Board of Appeals on special exceptions based on findings of fact;
5. Review proposed public facilities for consistency with the comprehensive plan and, prior to the City's adoption or amendment, review and make a recommendation on the Capital Improvements Plan;
6. Review and decide on Category 1 Site Plans as provided for in §3.1.3 of this Ordinance;
7. Review and decide on requests for certain modifications to site plan requirements including parking, landscaping, and building design modification;
8. Review and decide on subdivision plats;

9. Prepare, adopt, and distribute an annual report; and
11. Conduct other activities and duties as set forth in this Ordinance, or as requested by the City Commissioners, or and as provided for by Article 66B of the Maryland Annotated Code.

**B. Membership**

1. The Planning Commission shall consist of seven members, who are residents of the Town. All members shall be appointed by the Town Council.
2. Members shall be appointed for five-year terms and terms of appointment shall be staggered.
3. Vacancy in membership for an unexpired term shall be filled for the unexpired term by appointment by the Town Council. The Town Council shall consider a recommendation from the Planning Commission if one is provided.

**C. Officers**

1. The Commission shall elect from its membership a chairperson and vice-chairperson, annually.
2. The terms of the officers shall be one year, with eligibility for reelection.

**D. Meetings**

1. The Planning Commission shall establish a regular meeting schedule and shall meet frequently enough so that it can take action on all complete applications in an expeditious manner. The Planning Commission shall hold meetings quarterly or more often as the Planning Commission's duties require. If there is no business before the Planning Commission, the Chairman may cancel the meeting. The Planning Commission shall hold regular meetings at a regular schedule to conduct the business to be brought before it and shall at least meet every three months or four time per years.
2. Special meeting of the Commission may be called by the chairman.
3. All Commission meetings shall be open to the public.
4. Four members of the Commission shall constitute a quorum.
5. No action of the Commission shall be valid unless authorized by a majority vote of those present and voting.

6. The Chairperson and Vice-Chairperson may take part in all deliberations and vote on all items.

**E. Proceedings of the Planning Commission**

1. The Commission shall adopt written rules necessary to the conduct of its affairs.
2. All meetings shall be open to the public.
3. The Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.
4. **Decisions Based on Findings of Fact.** All decisions of the Planning Commission, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Planning Commission shall be final until the written decision of the Commission is signed and filed.

**F. Modifying the Provisions of this Ordinance**

The Planning Commission may, upon the review of a site plan, but only where and as so provided in this Ordinance, modify certain provisions upon its finding that such modification is the minimum necessary to faithfully implement the purposes of this Ordinance and implement the adopted Comprehensive Plan. This authority is distinctly different from the authority to grant a variance as provided in §2.2.5, which authority rests solely with the Board of Appeals.

**G. Appeals**

Any person aggrieved by a decision of the Planning Commission and desiring to appeal such decision may file a petition for judicial review through the Circuit Court of Cecil County.

### **§ 2.1.3 Board of Appeals**

#### **A. Establishment**

The Board of Appeals shall have the authority to:

1. Hear and decide appeals from any order, requirement, decision, action, or determination made by the Zoning Administrator. The Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken. The Board of Appeals is only authorized to hear and decide on appeals of the Zoning Administer and no other agency or body.
2. Hear and decide Special Exceptions that have first obtained a favorable recommendation from the Planning Commission as authorized under §2.2.7 of this Ordinance.
3. Authorize a variance from the terms of the Ordinance as provided for in §2.2.5 of this Ordinance.

#### **B. Membership**

1. The Board shall consist of five members who are residents or property owners in the Town. The Town Council shall appoint the members.
2. Members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term.
3. The Town Council shall designate one alternate member for the Board of Appeals who may be empowered to sit with the Board in the absence of any member of the Board, and when the alternate is absent the Town Council may designate a temporary alternate.

#### **C. Proceedings of the Board of Appeals**

1. The Board shall adopt rules necessary to the conduct of its affairs. Meetings shall be held at the call of the Chairperson. The Chairperson, or in his/her absence, the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
2. All meetings shall be open to the public.
3. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record.

4. Decisions Based on Findings of Fact. All decisions of the Board, whether favorable or unfavorable to the applicant shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Board shall be final until the written decision of the Board is signed and filed.

**D. Special Procedural Provisions**

1. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.
2. If any application or request is disapproved by the Board, thereafter the Board shall not accept application for substantially the same proposal on the same property for a period of one year from the date of such disapproval.
3. If an appeal to the Board is filed and the public hearing date set and public notice given, and thereafter the applicant withdraws the appeal, the applicant shall not file another application for substantially the same proposal on the same property for a period of one year from the date of withdrawal.

**§ 2.1.4 Historic District Commission**

**A. Establishment**

The Historic District Commission shall have the authority to:

1. Hear applications for development activities within the Historic District and to adopt and file with the Planning Commission certificates of approval or rejection on same.
2. To purchase architectural easements.

**B. Membership**

1. The Mayor and Town Council shall appoint the members of the Commission.

2. The Commission shall consist of seven members, all of whom, insofar as is possible, are qualified by special interest, knowledge or training in such fields as history, architecture, preservation or urban design.
3. All of the Commission members shall be residents of the Town. At least three of the members shall be residents of the Historic District Area. Effective with the first vacancy on the Commission upon adoption of this Ordinance, one member shall be a sitting member of the Town Council.
4. Members of the Commission shall be appointed for a five (5) year term. Any vacancy on the Historic District Commission shall be filled by the Mayor and Town Council for the unexpired term.

**C. Proceedings of the Historic District Commission**

1. The Commission shall adopt rules of procedure as needed to conduct its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman.
2. The Commission shall organize annually and, by election, shall select from its membership a chairman, vice-chairman and a secretary.
3. Meetings shall be open to the public.
4. Any interested person is entitled to appear and to be heard by the Commission before it reaches a decision on any matter.
5. The Historic District Commission shall keep an open record of its resolutions, proceedings, and actions which shall be kept available for public inspection during reasonable business hours.
6. Four members of the Commission shall constitute a quorum for the transaction of business, and a majority vote of the members present shall control the action of the Commission.

**D. Decisions Based on Findings of Fact**

All decisions of the Commission, whether favorable or unfavorable to the applicant, shall be based on and supported by written findings of fact pertaining to the case under review. No decision of the Commission shall be final until the written decision of the Commission is signed and filed.

## **§ 2.1.5 Mayor and Town Council**

### **A. General Duties of Mayor and Town Council**

The duties of the Mayor and Town Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise.

### **B. Specific Duties of Mayor and Town Council**

Under this Ordinance, the Mayor and Town Council shall have the following duties:

1. To consider and decide on proposed amendments or the repeal of this Ordinance, as provided by law.
2. To consider and decide on annexation petitions upon receiving a recommendation from the Planning Commission per §3.4.1 of this Ordinance.
3. To enter into Public Works Agreements and other development agreements as necessary and allowed by law to implement this Ordinance.
4. To establish a schedule of fees, fees-in-lieu, and charges.
5. To appoint qualifying members of commissions and boards.
6. To remove any member of a commission or board established by this Ordinance for inefficiency, neglect of duty, or malfeasance in office after providing written notice of charges and conducting a public hearing.

## **§ 2.2      General Permit and Application Procedures**

### **§ 2.2.1      Zoning Permits and Occupancy Permits**

#### **A.      Zoning Permit Required**

1.      A zoning permit certifies that an application complies with this Ordinance. Before an individual does any of the following, he or she must obtain a zoning permit: erect a building or structure, or enlarge, move, add to, or structurally alter a building, or excavate for a building or structure, or initiate any development activities pursuant to an approved site plan or subdivision plat.
2.      The Planning Commission shall issue zoning permits for approved Category 1 site plans (plans for commercial, multi-family residential and institutional developments, for example) and major subdivision plats.
3.      The Planning Commission shall issue zoning permits for approved Category 2 site plans (plans for single family homes and additions, for example) and minor subdivision plats unless it has delegated such authority to the Zoning Administrator through its adoption of its written rules of procedure.

#### **B.      Expiration of Zoning Permit**

1.      A zoning permit shall automatically expire one year from the date of its issuance if no work described in the permit has begun. The Zoning Administrator shall cancel the permit and provide written notice thereof to the persons affected.
2.      If work described in any zoning permit has not been substantially completed within two years of the date of issuance, unless work is satisfactorily proceeding thereon, the Zoning Administrator shall cancel the permit and provide written notice thereof to the persons affected,
3.      No work on a cancelled permit may proceed unless and until a new zoning permit has been obtained.

**C. Occupancy Permits for New, Altered, or Non-Conforming Uses**

1. It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until an occupancy permit shall have been signed by the Zoning Administrator and issued by the County Department of Permits and Inspections, stating that the proposed use of the building or land conforms to the requirements of this Ordinance.
2. No non-conforming structure or use shall be renewed, changed, or extended until the Zoning Administrator shall have issued a zoning occupancy permit. The zoning occupancy permit shall state specifically wherein the non-conforming use differs from the provisions of this Ordinance.
3. An applicant for an occupancy permit involving a change of use of a building shall first submit the application to the Cecil County Government for review and comment and then to the Zoning Administrator for permit review.
4. A temporary occupancy permit may be issued for a period not exceeding six months during alterations or partial occupancy of a building pending its completion, provided that such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.
5. As-built site plans: Two copies of the “as-built” site plan certified by an engineer shall be submitted to the Zoning Administrator prior to issuance of a zoning occupancy permit for any building shown on a Category 1 Site Plan.
6. The Zoning Administrator shall maintain a record of all zoning occupancy permits and copies shall be furnished upon request to any person.
7. Failure to obtain a zoning occupancy permit shall be a violation of this Ordinance and punishable under §2.2.5 of this Article.

**D. Construction and Use to be as Provided in Applications, Plans, Certificates, and Permits**

1. Zoning permits and zoning occupancy permits authorize only that which is set forth on approved plans and applications, and no other use, arrangement, or construction.
2. Use, arrangement, or construction differing with that authorized shall be deemed violation of this Ordinance.

## **§ 2.2.2 Building and Demolition Permits**

### **A. Purpose of Building Permit**

A building permit certifies that an application complies with the Cecil County Building Code as may be supplemented, amended, and revised from time to time.

### **B. Building Permit Required**

Before any of the following can take place, an applicant must obtain a building permit: erect a building or structure, or enlarge, move, add to, or structurally alter a building, or excavate for a building or structure, initiate any construction activities pursuant to an approved development site plan or subdivision plat.

### **C. Cecil County Permit and Inspection Approval Required**

Before the Zoning Administrator can issue a building permit, the Cecil County Permit and Inspection shall have reviewed and approved the required plans and issued a County Building Permit.

### **D. Conditions and Restrictions on a Building Permit**

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards on the building permit.
2. The Zoning Administrator may place conditions on the issuance of a building permit.
3. Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted or a permit is issued, shall be deemed a violation of this Ordinance.

### **E. Demolition Permits Required**

1. Before any activities to demolish or remove in whole or part, any building or structure an applicant must first obtain a demolition permit from the Zoning Administrator and Cecil County Government, which permit may be subject to an applicable fee set forth in the Town's Schedule of Fees.
2. The Zoning Administrator may place conditions on the issuance of a demolition permit.

3. Prior to issuing a demolition permit in the Historic District, the Zoning Administrator shall first forward the application to the Historic District Commission for review.

**F. Expiration of Building or Demolition Permit**

Every permit issued shall become null and void if the work authorized by such permit is not commenced within 180 days after its issuance or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the work is commenced. The Town's Zoning Administrator is authorized to grant in writing one or more extensions of time for periods of not more than 180 days each subject to payment of an applicable fee for each such extension which fee amount shall be set forth in the Town's Schedule of Fees. The extension shall be requested in writing with justifiable cause demonstrated.

### **§ 2.2.3 Amendments to this Ordinance**

**A. Who May Initiate**

Proposals for amendment, supplement, change, modification, or repeal may be initiated by the Town Council on its own motion, by the Planning Commission, or by petition of one or more owners of property to be affected by the proposed amendment, subject to the following provisions:

1. Proposals originated by the Town Council. The Town Council shall refer every proposal originated by the Town Council to the Planning Commission. Within 60 days of the submission, the Planning Commission shall submit to the Town Council a report containing the Planning Commission's recommendations, including any additions or modifications to the original proposal.
2. Proposals originated by the Planning Commission. The Planning Commission may at any time transmit to the Town Council a proposal.
3. Proposals originated by a citizen's petition. Each petition by one or more owners of property to be affected by a proposal for amendment, supplement, change, or modification shall be submitted on forms provided therefore to the Zoning Administrator. On receipt of said petition, the Zoning Administrator shall transmit a copy of the petition to the Planning Commission.

4. All amendments shall be the subject of a public hearing conducted by the Planning Commission. The Planning Commission shall conduct the hearing within 60 days of submission of proposed amendment and then within 45 days following a public hearing, the Commission shall submit a report to the Town Council containing the Commission's recommendations, including any additions or modifications of the original proposal. Failure to submit a report within 45 days shall be deemed approval of the petition by the Planning Commission. The Town Council shall defer action on a petition until the recommendations of the Planning Commission are received and reviewed or until 45 days have elapsed, whichever may occur first.

**B. Criteria for a Valid Zoning Map Change**

Except as part of a comprehensive rezoning of the Town of Chesapeake City, the Town Council shall approve no amendment to the Official Zoning Map unless it first finds upon a preponderance of evidence that either of the following criteria to have been met:

1. There was a mistake in the preparation of the Official Zoning Map.
2. Since the adoption of the current Comprehensive Plan, there has been a substantial change in the character of the neighborhood where the map amendment is proposed.

**C. Town Council Public Hearing and Notice**

1. No such amendment, supplement, change, modification, or repeal shall become effective until after a public hearing by the Town Council in relation thereto.
2. When such hearing concerns a zoning map change, the Town shall post in a conspicuous place on the property involved a notice of pending action; such posting to take place at least 15 days prior to the date fixed for public hearing.
3. When such hearing concerns a zoning map change, the Town shall give written notice of the time and place of such hearing, sent by registered mail to the applicant and to the owners of property contiguous to or opposite the property affected.

## **§ 2.2.4 Administrative Adjustments**

### **A. By Authority of the Zoning Administrator**

The Zoning Administrator is authorized to make certain administrative adjustments that are in harmony with the general purpose and intent of this Ordinance, in the specific instances set forth herein, where the Zoning Administrator makes findings of fact in accordance with the standards prescribed and finds that there are practical difficulties in carrying out these regulations.

### **B. Procedures**

1. All applications for administrative adjustments shall be filed with the Zoning Administrator on a form provided by the Town.
2. The Zoning Administrator is authorized to approve administrative adjustments, after having determined that the submission is complete and finding that the request meets the requirements for granting an administrative adjustment.
3. Within fifteen days, the Zoning Administrator shall decide to: (1) approve the application, (2) approve the application subject to specific conditions; or (3) deny the application. The Zoning Administrator's decision shall be based on written findings of fact and may impose such conditions or restrictions upon the premises as may be necessary to comply with the standards and purposes established in this Ordinance.
4. The Zoning Administrator shall transmit a copy of the decision to the applicant and all other persons previously receiving notice of the application.

### **C. Permitted Administrative Adjustments**

Administrative adjustments may be granted only for the following:

1. Setbacks. To permit setbacks of up to ten percent less than required by applicable regulations.
2. Lot Coverage. To permit lot coverage of up to ten percent more than required by applicable regulations, except within the Critical Area.
3. Building Height. To permit a building height of up to five percent more than required by applicable regulations.
4. Signs. As provided in §6.5.9 of this Ordinance.

**D. Adjustments for Non-Conforming Lots Prohibited**

The Zoning Administrator may not approve administrative adjustments when the minimum lot width and area requirements for the property are not met.

**E. Review Criteria and Findings**

The Zoning Administrator shall not grant an administrative adjustment unless he/she makes findings based upon the evidence presented in each specific case that:

1. Practical Difficulties. The particular physical surroundings shape or topographical conditions of the subject property result in practical difficulties for the owner, which have not been created by any persons having an interest in the property.
2. Unique Conditions. The conditions upon which an application for an adjustment is based are unique to the subject property and are not applicable, generally, to other property within the same zoning classification.
3. Public Safety and Welfare. The granting of the adjustment will not be detrimental to the public safety or welfare or injurious to other property or improvements in the neighborhood in which the property is located.

**F. Expiration of Approval**

1. No decision granting an administrative adjustment shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.
2. The Zoning Administrator may, upon a showing of good cause, grant one six month extension of an administrative adjustment, provided that a written application for extension is filed while the decision is still valid.

**§ 2.2.5 Variances**

**A. By Authority of the Board of Appeals**

A property owner may apply to the Board of Appeals for a variance from the strict application of the terms of this Ordinance in order to avoid unwarranted hardship to the applicant, provided however that this shall be narrowly construed and applied by the Board in order to avoid undermining the purpose, integrity, intent and generally uniform application of this Ordinance

**B. Procedures**

Applications for a variance shall be submitted to the Zoning Administrator and shall include written statements addressing the following:

1. The specific provisions from which a variance is sought.
2. The nature and extent of the variance sought.
3. The special conditions of the property which would make a variance necessary.
4. A statement indicating why the variance should be granted.
5. The description of the alleged hardship that is caused by the physical surroundings, shape or topographical conditions of the subject property.

**C. Public Hearing Required**

No variance shall be authorized by the Board until a public hearing has been held on it.

**D. Burden of Proof**

The applicant for a Variance shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

**E. Decision on Variances, Standards**

The Board of Appeals shall not grant a variance unless it makes findings of fact in writing based upon the evidence presented to it in each specific case that each of the following standards are met:

1. Because of the particular physical surroundings, shape or topographical conditions of the subject property, a particular hardship to the owner would result as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out. The alleged hardship shall relate to the land not to personal circumstances.

2. The conditions upon which a petition for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification.
3. The alleged hardship has not been created by the present owner or any previous owners of the property.
4. The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
5. The variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion of the public streets, increase the danger of fire, endanger the public safety, or alter the essential character of the neighborhood or district in which the property is located.
6. Within the intent and purpose of this Ordinance, the variance, if granted, is the minimum variance necessary to afford relief.
7. The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and will be in harmony with the general spirit and intent of the Critical Area Law and the Critical Area Program.
8. No non-conforming use of neighboring lands, structures, or buildings in the same zone, and no permitted use of lands, structures, or buildings in other zones shall be considered grounds for the issuance of a variance.

**F. Conditions and Restrictions**

1. In granting any variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance.
2. In granting a variance, the Board may impose such reasonable conditions as will ensure that the use of the property will be compatible as practical with surrounding properties.

**G. Prohibited Variance**

Under no circumstances shall the Board of Appeals grant a variance to allow a use not permissible under the terms of this Ordinance in the zone involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said zone.

## **H. Property in the Critical Area**

If the variance concerns property in the Critical Area:

1. A copy of the application for a variance will be provided to the Critical Area Commission by the Board of Appeals in a timely manner, but no fewer than 14 calendar days prior to the Board's hearing on the matter.
2. The Board will promptly forward a copy of its decision to the Critical Area Commission.

## **I. Expiration of Approval**

1. No decision granting a variance shall be valid for a period longer than one year from the date of the decision, unless the building permit is obtained within that period and the erection or alteration of a building is started or the use is commenced within that period.
2. The Zoning Administrator may, upon a showing of good cause, grant one six month extension of a variance, provided that a written application for extension is filed while the decision is still valid.

## **§ 2.2.6 Appeals**

### **A. Initiation**

Any person or agency aggrieved or affected by an action or decision of the Zoning Administrator may appeal such action or decision to the Board of Appeals.

### **B. Timing for Appeal**

An appeal must be taken within a reasonable time of the decision not to exceed 30 days.

### **C. Processing and Public Hearing Requirements**

1. An appeal shall be filed with the Zoning Administrator and the Board of Appeals, specifying the grounds thereof. The Zoning Administrator shall forthwith transmit all papers constituting the record upon which the decision or action appealed was taken.
2. The Board of Appeals shall process all notices of appeal in accordance with the provisions of §2.3.1 of this Ordinance.

3. The Board shall decide the appeal within 30 days of closing its hearing on the appeal.

**D. Scope of Decision of the Board**

The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the Zoning Administrator from whom the appeal is taken.

**E. Stay of Proceedings**

An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the notice of Appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Appeals or by the Circuit Court on application, on notice to the Zoning Administrator from whom the appeal is taken and on due cause shown.

## **§ 2.2.7 Special Exceptions**

**A. Purpose and Intent**

There are certain uses, which by their nature or design can have an undue impact upon or be incompatible with other uses of land in the same zoning district. These uses may be allowed to locate within given designated zoning districts under the controls, limitations and regulations of a special exception.

**B. Authorization**

In consideration of an application filed with the Zoning Administrator, the Board of Appeals may authorize the establishment of a special exception listed in a particular district in Table 1 in Article 4 of this Ordinance.

**C. Status of Special Exception Uses**

1. Once a special exception has been approved, any site plan, subdivision plat, building permit, or zoning and occupancy permit hereafter submitted for the development or use of the property in accordance with the special exception shall conform with the approved special exception and no development or use shall be approved by the Zoning Administrator in the absence of such conformance.

2. Once established, the use shall be conducted in strict accordance with any condition or restriction imposed by the Board of Appeals and all other requirements of this Ordinance. No use shall be enlarged, expanded, increased in intensity or relocated and no condition of the special exception or a new special exception shall be modified unless an application is made and approved for an amendment to the special exception or a new special exception is approved.
3. Once a special exception use is approved, the use shall not be considered a non-conforming use, but shall be, without further action, considered a conforming one

#### **D. Standards**

The Board of Appeals shall grant a special exception only if it finds, from a preponderance of evidence of record, that any proposed use submitted for a special exception will meet all of the following general standards as well as any specific standards or conditions listed for the proposed use in §4.2.3.

1. The establishment, maintenance and operation of the special exception will not be detrimental to or endanger the public health, safety, or general welfare.
2. The special exception shall be such that it will be harmonious in character as well as appropriate in appearance with and will not be injurious to the use and enjoyment of other property in the neighborhood for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
3. The establishment of the special exception will not impede the normal and orderly development and improvement of surrounding properties for the uses permitted in the district.
4. Adequate utilities, public water and sewer facilities, access roads, drainage and all necessary facilities have been or are being provided.
5. The special exception shall be such that pedestrian and vehicle traffic associated with such use will not be hazardous to or unduly conflict with the existing and anticipated traffic in the neighborhood.
6. The establishment, maintenance and operation of the special exception are consistent with the Comprehensive Plan.

#### **E. Burden of Proof**

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact that are to be determined by the Board of Appeals.

**F. Conditions and Restrictions**

The Board of Appeals, in approving a special exception, may impose such conditions and restrictions upon the proposed use, as it may deem necessary in the public interest to secure compliance with the provisions of this Ordinance and to promote implementation of the Comprehensive Plan.

**G. Application Procedure**

1. The Board shall not grant a special exception unless and until a written application is submitted indicating the section of this Ordinance under which the special exception is sought and stating the grounds on which it is requested.
2. Applications for a special exception shall be submitted to the Zoning Administrator. The application shall be completed and shall be accompanied by information which will be necessary to evaluate a given proposed category or use. The Zoning Administrator, upon receipt of a properly completed and documented application, shall refer the application along with pertinent evaluation material to the Board.
3. The Board of Appeals shall not grant a special exception unless and until the Planning Commission has reviewed the application and has first made a favorable recommendation to the Board.
4. An application for a special exception may be made by a property owner, lessee or contract purchaser. A lessee or contract purchaser must file with the application, a copy of the contract or some form of written statement, which indicates endorsement of the application by the property owner.

**H. Processing and Public Hearing Requirement**

The Board of Appeals shall process all applications for special exception in accordance with the provisions and public hearing requirements provided in §2.3.1 of this Ordinance.

## **I. Termination or Revocation**

1. Unless a time limit is specified for a special exception, the same shall be valid for an indefinite period of time, except that, if the use or activity should cease for any reason for a continuous period of one year, the special exception shall automatically terminate without notice. The approval of a new special exception shall be required prior to any subsequent reinstatement of the use.
2. A special exception shall be revocable on the order of the Board of Appeals at any time because of the failure of the owner or operator of the use covered by the exception to observe all requirements of law with respect to the maintenance and conduct of the use and all conditions in connection with the exception that were designated in issuing the same.

Before revoking any special exception, however, the Board of Appeals shall give the holder thereof at least ten days written notice of violation. If within ten days, the exception holder so requests, the Board of Appeals shall hold a hearing on the revocation of the exception, giving the applicant advance written notice of the hearing date.

3. The foregoing provisions shall not be deemed to preclude the use of any other remedy prescribed by law or by this Ordinance with respect to violations.

## **§ 2.3 Hearings of the Board of Appeals**

### **§ 2.3.1 Hearings of the Board of Appeals**

#### **A. Hearing Required**

Before making a decision on an appeal or an application for a variance, special exception, a petition to revoke a special exception, the Board of Appeals shall hold a hearing.

#### **B. Format of Hearing**

1. The hearing shall be open to the public and all interested persons shall be given an opportunity to present evidence and arguments and ask questions of persons who testify.
2. The Board of Appeals may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross-examination of witnesses so that the matter at issue may be heard and decided without undue delay.
3. The Board may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. The Board shall announce the date and hour of continuance of such hearing while in session.

### **§ 2.3.2 Notice of Hearing**

#### **A. Public Notice to be Given**

Public notice shall be given at least 15 days in advance of the hearing in the following ways:

1. Notice shall be posted on the subject property and at the Town Office,
2. Notice shall be published in a newspaper of general circulation in the Town, and
3. Written notice shall be provided to the adjoining property owners.

**B. Notice to Interested Parties**

Verifiable notice shall be given to the appellant or applicant and any other person who makes a written request for such notice at least 15 day in advance of the hearing.

**C. Contents of Notice**

The notice required by this section shall state the date, time, and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of the action requested or proposed.

**§ 2.3.3 Evidence and Record of Hearing**

**A. Sworn Testimony**

All persons who intend to present evidence to the board, rather than arguments only, shall be sworn.

**B. Evidence**

All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed.

**C. Record of Hearing**

1. An audio recording and recording by legal stenographer shall be made of all hearings and such recordings shall be kept for at least two years. Accurate minutes shall also be kept.
2. Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the Town for at least two years.

## **§ 2.3.4      Modification of Application at Hearing**

### **A.      Applicant May Modify Application**

In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Board of Appeals, the applicant may agree to modify his/her application, including the plans and specifications submitted.

### **B.      Board Approval of Modified Application**

Unless such modifications are so substantial or extensive that the Board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board may approve the application with the stipulation that a permit will not be issued until plans reflecting the agreed upon changes are submitted to the Zoning Administrator for review.

## **§ 2.3.5      Written Decision**

### **A.      Interested Parties to be provided Written Decision**

Any decision made by the Board of Appeals regarding an appeal or variance or issuance or revocation of a special exception shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

### **B.      Findings and Conclusions**

In addition to a statement of the Board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board's findings and conclusions, as well as supporting reasons or facts.

### **C.      Appeal of Board Decision**

Recourse from the decisions of the Board of Appeals shall be to the courts as provided by Maryland law.

## § 2.4 Non-conforming Lots, Structures, and Uses

### § 2.4.1 Intent of Regulations

#### A. Purpose and Intent

1. It is the intent of this Ordinance not to encourage the survival of non-conformities. Such uses are incompatible with permitted uses in the zoning districts involved.
2. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

#### B. Extension of Non-Conformities Prohibited

A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises, or by the addition of other uses of a nature which would be prohibited in the zone involved.

#### C. Impact on Ongoing Lawful Construction

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction, defined in Article 9 of this Ordinance, was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been diligently carried on.

## **§ 2.4.2 Non-Conforming Lots Structures, and Uses**

### **A. Non-Conforming Lots of Record**

1. In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area, or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the regulations for the zone in which such lot is located. Any variance of yard requirements shall be obtained only through action of the Board of Appeals.
2. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements for lot width and area as established by this Ordinance, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold which does not meet lot width or area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

### **B. Non-Conforming Uses of Land**

Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;
2. No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.
3. If any such non-conforming use of land ceases for any reason for a period of more than 90 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the zone in which such land is located.

**C. Non-conforming Structures**

Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued subject to §2.4.2E, so long as it remains otherwise lawful, subject to the following provisions:

1. No such structure may be enlarged or altered in a way that increases its non-conformity.
2. Should such structure be destroyed by any means to an extent of more than 25 percent of its replacement cost at time of destruction as determined by the Zoning Administrator, it shall not be reconstructed as a non-conforming use.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

**D. Non-Conforming Uses of Structures**

If a lawful use of a structure or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the zoning district under the terms of this Ordinance, the lawful use may be continued subject to §2.4.2E of this Ordinance, so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the zone in which it is located, except dwellings, shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.
2. Any non-conforming use may be extended throughout any parts of a building that were manifestly arranged or designed for use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may be changed to another non-conforming use, provided that the Zoning Administrator shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Zoning Administrator may require appropriate conditions and safeguards in accord with the provisions of this Ordinance.
4. Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not thereafter be resumed.

5. When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for nine consecutive months or for 15 months during any three-year period, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the zone in which it is located.
6. Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structures shall eliminate the non-conforming status of the land.

**E. Repairs and Maintenance of Non-Conforming Structure**

1. On any structure devoted in whole or in part to any non-conforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding ten percent of the current replacement value of the structure, provided that the cubic content of the building, as it existed at the time of passage or amendment of this Ordinance shall not be increased.
2. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

## **§ 2.5 Enforcement of this Ordinance**

### **§ 2.5.1 Required Compliance with Ordinance**

**A. Permits in Conflict are Null and Void**

Any permit or license, issued in conflict with the provisions of this Ordinance, shall be null and void.

**B. Zoning Administrator to Take Action on Violations**

If the Zoning Administrator finds that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of

additions, alterations, or structural changes hereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violation of its provisions.

**C. Questions of Interpretation**

All questions of interpretation and enforcement shall be first presented to the Zoning Administrator and such questions shall be presented to the Board of Appeals only on appeal from the decision of the Zoning Administrator.

**§ 2.5.2 Penalties for Violation**

**A. Violation Constitutes a Municipal Infraction**

1. A violation of any of the provisions of this Ordinance or failure to comply with any of its requirements shall constitute a municipal infraction, subject to a fine of one hundred dollars (\$100) for the first violation. The fine for each subsequent violation shall be two hundred dollars (\$200). Each day such violation continues shall be considered a separate offense.
2. The owner or tenant of any building, structure, premises, or part thereof, and any architect, engineer, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

**B. Provisions Concerning Unlawful Demolition**

In addition to the penalties and remedies provided in §2.5.2(A) of this Ordinance, any site or structure demolished without proper permit in violation of this Ordinance shall be ineligible for any use and/or zoning certificates and/or building permits for the erection or rebuilding of the building or structure for a period of five years from the date of such demolition. Upon expiration of the five-year period the owner may make application for a zoning permit and/or building permit in accordance with the procedures set forth in this Ordinance.

**C. Other Lawful Action as Necessary**

Nothing herein contained shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation. The Town may enforce this Ordinance by civil action for declaratory judgment and/or injunction, in addition or as an alternative to citing the violator for a municipal infraction. In the case of a civil action for declaratory judgment and/or injunction, the Town may recover its legal fees and court costs from the violator.

**§ 2.5.3 Schedule of Fees, Charges, and Expenses**

**A. Schedule of Fees**

1. The Mayor and Town Council shall establish a schedule of fees, fees-in-lieu, charges, and expenses, and a collection procedure, for zoning permits, use and occupancy permits, appeals, variances, special exceptions, amendments, site plan and subdivision plat reviews, building and demolition permits, annexation petitions, and other matters pertaining to this Ordinance.
2. The schedule of fees shall be posted in the offices of the Zoning Administrator and may be altered or amended only by the Mayor and Town Council, upon recommendation of the Planning Commission.

**B. No Action until Fees Paid**

No certificate, permit, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses, have been paid in full, nor shall any action be taken on proceedings before the Board of Appeals unless or until charges and fees have been paid in full.

## Article 3

### Development Plan Approvals

*This Article provides the procedures and requirements for two major types of plan approvals: site plans, and subdivision plans. It also provides standards on impact studies which the Planning Commission may require and procedures on the review of Annexation Plans.*

## § 3.1 Site Plan Review and Approval

### § 3.1.1 Uses Requiring Site Plans

#### A. Purpose

Site plans are required to assure good arrangement and appearance of new development; ensure harmony with existing structures; assure consistency with the Town's building and site design standards, and the Comprehensive Plan; to provide an understanding of the impacts of proposed uses and development on public facilities and services and ensure the availability and adequacy of the same; and to otherwise meet the purposes of this Ordinance.

#### B. Category 1 Site Plans

Site plans for the following major uses including new construction or the relocation of a building shall be subject to review by the Planning Commission and shall be called Category 1 Site Plans:

1. All commercial or industrial buildings, complexes, and uses.
2. All institutional buildings and uses including, educational, governmental, recreational and religious.
3. All new construction or external alterations of buildings in a Historic District.
4. All multiple-family dwellings, buildings, and complexes, and townhouses.
5. All mixed use buildings and sites.
6. Temporary, carnival, festival and related uses when determined by the Zoning Administrator to have impact that extend beyond the property of the principal use.

#### C. Category 2 Site Plans

Site plans for the following uses which have a minor impact shall be subject to review by the Zoning Administrator and approval by the Planning Commission unless such authority is expressly delegated by the Planning Commission to the Zoning Administrator in the Commission's written procedures as provided in §3.1.2B and shall be called Category 2 Site Plans:

1. Single-family detached dwellings, bed and breakfast facilities, accessory uses, and rehabilitation projects.
2. Additions to buildings, where review is deemed necessary by the Zoning Administrator.
3. Where an existing use is changing to another approved use in any zoning district.
4. Decks, porches, and other similar structures.

### **§ 3.1.2 Site Plan Processing Procedures**

#### **A. Procedures by Type of Plan**

Site plan processing procedures for Category 1 site plans are set forth in §3.1.3. Administrative review procedures for Category 2 site plans and other plans are set forth in §3.1.7.

#### **B. Planning Commission to Establish Its Procedures**

1. The Planning Commission shall establish its written procedures, checklists and application forms necessary to ensure the timely and proper review and processing of site plans and other plans consistent with this Ordinance. The Commission shall establish the number and acceptable format for the various types of plans submitted for review under this Ordinance.
2. In establishing its procedures, the Planning Commission may delegate to the Zoning Administrator project review and approval authority for any or all of the projects eligible for Administrative Review Procedures of Section §3.1.7.
3. Procedures and application forms shall be made available at the offices of the Zoning Administrator.
4. The Planning Commission may modify such procedures, checklists, and application forms from time to time.
5. The Planning Commission may prescribe specific conditions on its approval determined necessary to minimize effects of use on neighboring properties given identification of concerns specific to a particular site.

### **§ 3.1.3 Category 1 Site Plan Processing Procedures**

There are three primary stages in the Category 1 site plan process: concept, preliminary, and final.

**A. Concept Stage**

The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a development proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a site plan.

1. No application for Category 1 site plan approval shall be accepted by the Town until:
  - a. A concept site plan package as provided for in §3.1.4 is submitted for review by the Zoning Administrator.
  - b. Any required concept plan review fees have been paid.
  - c. The steps for concept site plan review as established by the Planning Commission are completed which shall include a application to the Cecil County Department of Public Works for review
2. The Zoning Administrator shall review the concept site plan package for completeness and shall refer it to the appropriate individuals or agencies for review, comment, and/or approval prior to submitting it to the Planning Commission.
3. The applicant for site plan approval shall attend a meeting with the Zoning Administrator prior to submitting the concept plan to the Planning Commission. Consistent with the purpose of site plan review, the purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns with the concept plan, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
4. The Planning Commission shall hold one meeting on the concept plan to receive an informational briefing on the plan and the anticipated issues and impacts related thereto. The Planning Commission shall take no action to approve or disapprove a concept plan. Should the Planning Commission determine that the development project represented by the concept plan may have substantial impact on the physical, economic, or social environment; the Planning Commission may hold more than one meeting on the concept plan.
5. For all Category 1 Site Plans submitted for review, the Zoning Administrator shall:
  - a. Submit verifiable notice to the applicant at least seven days before the day of the meeting to discuss the concept site plan, and
  - b. Submit verifiable notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the meeting to discuss the concept site plan, and the name of the applicant. Such notice shall be sent not less than seven days before the day of the meeting.

- c. The Planning Commission may provide for expanded public notification of its deliberations of site plans at its discretion.
- 6. The review and approval of stormwater management plans by the Cecil County Department of Public Works is required prior to final plan review. The applicant for the Town's site plan approval shall be responsible for coordinating the County's review and approval of stormwater management plans.

**B. Preliminary Stage**

The purpose of the preliminary stage is to provide the Planning Commission with the information necessary for it to take action to approve or disapprove a site plan. The Planning Commission shall review and take action to approve or deny all Category 1 site plans. Prior to acceptance of a Preliminary Site Plan for review, the applicant shall provide the Zoning Administrator with the formal plan review comments from Cecil County.

- 1. Preliminary site plans meeting the submittal requirements of §3.1.5 shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the requirements for preliminary site plans and shall transmit said plans to the Planning Commission with his or her comments for review.
- 2. The Planning Commission shall examine the proposed development with respect to the traffic and circulation patterns and safety (internal and external), utilities, drainage, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building, site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land.
- 3. The Planning Commission shall take action to approve, approve with conditions, disapprove, or table pending further investigation and/or receipt of certain additional information, but shall take no action until the following has occurred:
  - a. The Zoning Administrator has reviewed the site plan and determined that it is complete and submitted its findings in writing to the Planning Commission.
  - b. The Applicant has submitted any impact studies that may be required by §3.3 of this Ordinance and has obtained Town approval of such required studies.
  - c. Comments on the site plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has paid all appropriate preliminary site plan review and application fees to the Town.

4. No public hearing shall be required, but may be called at the option of the Planning Commission.

**C. Final Stage**

The purpose of the final stage is to ensure that all submittal requirements of final site plans as set forth in §3.1.6 and that any required design and construction standards are specifically and accurately addressed, to ensure that all conditions of the Planning Commission's approval are specifically and accurately met, and to finalize any and all necessary formal agreements related to the project which may include public works agreements, and easement agreements, among others.

1. Final site plan approval shall be granted prior to the commencement of any development activity.
2. Final site plans shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations and the conditions, if any, of Planning Commission approval. If specified conditions or stipulations are met in revised plans, the Zoning Administrator shall approve issuance of building permits in accord with the revision without returning the plans for further Planning Commission review.
3. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, he/she and the Chairperson of the Planning Commission shall each sign the site plan to indicate completion of review and approval by the Town and to certify that conditions, if any, of site plan approval have been met. The applicant shall submit all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given.
4. When a public works agreement is required, final approval shall not be certified until that public works agreement has been executed by the applicant and the Town.

**D. Project Built to Plan for Occupancy Permit**

1. The Zoning Administrator shall assure that the project is completed in conformance with the approved site plan before certifying the same. Upon such certification, Cecil County will issue a use and occupancy permit.
2. Before issuance of an occupancy permit, either all the work must be completed or in the Town's discretion, all remaining work must be bonded.

**§ 3.1.4 Contents of Concept Plan Submittals**

The concept site plan package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:

**A. Project Concept Plan**

A scaled drawing showing the proposed development on a survey of the project boundaries. It shall show the project layout, proposed and existing land uses, open spaces, circulation routes, and points of access to the adjacent street network, and main design features. If phasing is proposed, a master plan for entire project shall be shown. Drawings shall be 24 inches × 36 inches. Scale shall be no less detailed than 1 inch = 100 feet and shall show adjacent streets and adjacent property owners. A vicinity map at a scale no less detailed than 1 inch = 1,000 feet shall be included which shows the location with respect to neighborhood streets. Typical architectural elevations shall be included.

**B. Project Area Schematic**

A scaled drawing or GIS aerial photograph showing the main features of the project in relationship within the neighborhood. Included in the drawing shall be existing infrastructure within at least 1,000 feet, including streets, intersections, water, sanitary sewer, and storm drains. Scale shall be no less detailed than 1 inch = 400 feet for large projects and 1 inch = 200 feet for small projects. Drawings shall be no larger than 24 inches x 36 inches.

**C. Site Investigation Report**

A report providing information and data on the physical and environmental characteristics of the site, the proposed uses and utility demands, anticipated impacts of the proposed development on neighboring properties, area infrastructure and services, recreational resources and other public facilities, compliance with the Town Comprehensive Plan, and the proposed architectural and design character. The Site Investigation Report shall follow the format established by the Planning Commission as may be amended from time to time and shall address each of the following.

1. Site Data Summary Chart: Tax map and parcel number, Planning Commission case numbers and prior approvals, Board of Appeals case numbers and prior approvals, zoning classification (including Critical Area designation if applicable), proposed zoning, allowable density, proposed density, total site area, flood zone, wetlands (State and Federal), number of proposed lots, number of proposed units and types, availability of utilities, zoning set back requirements, zoning lot size requirements, maximum building height allowed by zoning, open space required by zoning, and proposed open space, use of open space, parking required by zoning and proposed parking. Provide breakdown for each phase or land use as appropriate.
2. Land Use Overview: Provide narrative of existing site conditions and provide legible copy of Cecil County soil map with outline of property sketched on it. Describe existing

context and highlight any issues regarding marginal site conditions including topography, hydric soils, existing drainage patterns, standing water, culverts, ditches, wetlands or sensitive areas.

3. Traffic Access Overview: Provide narrative of existing roads, lanes, width, material, condition, curb, sidewalk, and offsite improvements needed to accommodate the project. If project is known to require an SHA traffic study, provide summary information and study schedule.
4. Utility Demands and Services Overview: Provide narrative on conditions and capacity of sanitary sewer, public water, gas, and electric, and describe any offsite improvements needed.
5. Storm Water Management Overview: Provide narrative on types of best management practices to be used, proposed conveyance and management techniques and a summary of any offsite improvements needed.
6. Construction Phasing Overview: Provide narrative of time of construction and estimate the number of anticipated building permits per year.
7. Provide narrative of recreational needs and opportunities if the project is residential.

### **§ 3.1.5 Contents of Preliminary Site Plan**

The applicant is responsible for preparing a preliminary site plan. As directed by Planning Commission guidance, the preliminary site plan shall be submitted as a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at scales no less detailed than 1 inch equal to 100 feet.

#### **A. Order of Plan Sheets**

Preliminary site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

#### **B. Contents**

The preliminary site plan shall show the North point, scale, date, and the following:

1. The seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect as appropriate.

2. Revision block on each sheet to accurately disclose any drawing revisions made after the first submittal for preliminary plan review.
3. A key and overview plan for multi-stage projects.
4. Geographical location, showing existing zoning district boundaries.
5. Existing zoning classification on the site and adjacent sites.
6. Topographic contours at a minimum of one-half-foot intervals unless waived by the Zoning Administrator as clearly unnecessary to review the project or proposal.
7. The location and nature of all proposed construction, excavation or grading, including but not limited to building, streets and utilities.
8. A grading plan (horizontal) conforming to requirements of Cecil County standards.
9. A Utility Plan (horizontal). It shall show all existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades, and the location of all connections to the utility system.
10. Where deemed appropriate and necessary by the County Department of Public Works, provisions for the adequate management of natural and storm water.
11. Where deemed appropriate and necessary by the County Department of Public Works, provisions for the adequate control of erosion and sedimentation, indicating the proposed temporary and permanent control practices and measures that will be implemented during all phases of clearing, grading, and construction.
12. A landscape and lighting plan including location and details of signage.
13. A parking plan, showing all off-street parking, related driveways, loading spaces and walkways, indicating type of surfacing, size, angle of stalls, width of aisles and a specific schedule showing the number of parking spaces provided and the number required by this Ordinance.
14. Architectural elevations in color including at least one presentation board of no smaller than 24 inches by 36 inches.
15. Preliminary street profiles and cross sections for streets and curbing. All existing and proposed streets and easements including widths.
16. Approximate location of point of ingress and egress to existing public streets and highways; if ingress or egress is onto a state maintained roadway, an accompanying letter from the Maryland State Highway Administration indicating preliminary approval shall be required.

17. All existing easements of any kind. If easements are to be granted, a separate and preliminary easement plat shall be provided.
18. The number of construction phases proposed, if any, with the site plan showing the approximate boundaries of each phase, and the proposed completion date of each phase.
19. A tabulation of total number of acres in the project gross or net as required in the district regulations, and the percentage thereof proposed to be devoted to the several dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools and other reservations.
20. Number of dwelling units to be included by type of housing: apartments of three stories and under; apartments over three stories; single-family dwellings; townhouses; and two-family dwellings. The overall project density in dwelling units per acre, gross or net as required by district regulations.
21. Proposed buildings and structures with dimensions, setbacks and heights designated including floor areas of all non-residential buildings and the proposed use of each.
22. Approximate location and size of nonresidential areas, if any (parking areas, loading areas or other).
23. Approximate location and size of recreational areas and other open spaces.
24. Existing vegetation, proposed removal of vegetation, and proposed replacement of vegetation.
25. Location, type size and height of fencing, retaining walls, and screen planting.
26. Location, orientation, design, and size of signs, if any.
27. The Planning Commission may establish additional requirements for preliminary site plans, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

### **§ 3.1.6 Contents of Final Site Plan**

The applicant is responsible for preparing the final site plan. The final site plan shall comply with all existing laws, regulations, and ordinances governing the approval of site plans and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.

**A. Final Plan Shall be as Required**

In addition to meeting the submittal requirements of a preliminary site plan, final site plan shall meet all specific plan submittal requirements of the Town and Cecil County as appropriate.

**B. Final Plan Shall Comply with Conditions of Approval**

Submittals shall demonstrate compliance with any conditions of site plan approval and shall include all necessary approvals from any local, county, state, and federal agency.

**C. Adding or Waiving Submittal Requirements**

As a condition of site plan approval, the Planning Commission may establish additional submittal requirements for a final site plan, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.

**D. Order of Plan Sheets**

Final site plans submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.

## **§ 3.1.7 Administrative Plan Review Procedures**

Administrative plan review is for projects with relatively minor impact, which require less information and can be reviewed and approved in a shorter time. In administrative plan review, the Planning Commission is the approving authority unless it has delegated such authority to the Zoning Administrator through establishment of its project review and approval procedures. Administrative plan review is for Category 2 site plans as provided in §3.1.1C, minor subdivisions, lot line adjustments, and conversions of existing deeded lots to parcels.

**A. Acceptance of Plan for Administrative Review**

No application for Administrative review shall be accepted by the Town until:

1. A plan in compliance with in Section §3.1.8 is submitted for review to the Zoning Administrator.
2. Any required plan review fees have been paid.

**B. Action by Approving Authority**

Plans requiring administrative review shall be submitted to the Zoning Administrator who shall review the plans for compliance with these regulations.

1. If the Approving Authority finds that such plans meet the intent of this Ordinance and are consistent with the Comprehensive Plan, then he / she shall affix his/her signature on the plan(s) certifying approval.
2. If the Approving Authority finds that the plan does not meet the intent of this Ordinance and/or is not consistent with the Comprehensive Plan and the Town's adopted building and site design standards, then he / she shall deny approval and transmit that decision in writing to the applicant.
3. The Approving Authority shall not take action to approve or deny a plan requiring administrative review until the following has occurred:
  - a. The Zoning Administrator has reviewed the plan and determined that it is complete.
  - b. The Applicant has submitted any impact studies that may be required by §3.3 of this Ordinance and has obtained Town approval of such required studies.
  - c. Comments on the plan from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has submitted all local, county, state and/or federal approvals as may be required.

**C. Appeals**

Any person aggrieved by an administrative plan review decision made by the Zoning Administrator and desiring to appeal such decision must appeal to the Board of Appeals per §2.2.6 of this Ordinance.

### **§ 3.1.8        Contents of Plans for Administrative Review**

Plans for administrative review shall comply with all existing laws, regulations, and ordinances governing development approval and provide sufficiently accurate dimensions and construction specifications to provide the data necessary for the issuance of a building permit. The plan shall show the north point, a scale not to exceed 1 inch = 40 feet, the date, and the following:

#### **A.        Professional Seal May be Required**

As may be required by the Zoning Administrator, the seal and signature of a Registered Maryland Land Surveyor and/or the seal and signature of licensed Engineer or Landscape Architect.

#### **B.        Contents**

The plan shall show the north point, a scale not to exceed 1 inch = 40 feet, the date and the following:

1.        All existing property lines with dimensions.
2.        If converting an existing deeded lot to a new parcel, old lot lines with dimensions and numbers shall be shown.
3.        If site plan includes a proposed minor subdivision or lot line adjustment, proposed lot lines with dimensions shall be shown.
4.        All setbacks lines.
5.        All existing structures (dimensions, total square footage, distance from property lines).
6.        Zoning classification (property and adjoining properties).
7.        Proposed signs, if applicable.
8.        Proposed building elevations of all sides visible from the public right-of-way, if applicable.
9.        Proposed landscaping if applicable.
10.       All existing and proposed driveway/parking spaces/interior roadway areas and dimensions, if applicable.
11.       For a change of use and/or addition, interior layout with dimensions to include existing and proposed uses.
12.       Other information as may be required by the Zoning Administrator or Town Engineer to adequately review the plan.

13. Sanitary sewer, public water, and storm drain locations, including the location of all lines and ties-ins.
14. All existing and proposed easements and rights-of-way, if applicable.

### **§ 3.1.9 Amendment of Approved Site Plan**

Amendments to an approved site plan shall be submitted to the Zoning Administrator with an appropriate application. The Zoning Administrator shall determine at that time the appropriate fee amount and payment schedule, if any, which shall apply.

#### **A. Major or Minor Amendment**

The Zoning Administrator shall determine if the proposed amendment is major or minor or if it instead constitutes a substantive change. Upon a finding that a proposed amendment constitutes a substantive change rather than an amendment as provided below, the Zoning Administrator shall return the application to the applicant.

1. A minor amendment is a modification that does not change the intensity of the use or alter the traffic pattern.
2. A major amendment is a modification that modestly changes the intensity of the use or alters the traffic pattern or the demand on area infrastructure or materially, but not substantively, changes the open space, building location, and building and/or site design.
3. Substantive changes to an approved site plan are not amendments under the terms of this Section and shall not be processed as such. An applicant who wishes to move forward with a substantive change to an approved site plan shall be required to prepare and submit a new site plan for review and approval. Substantive changes to an approved site plan include but are not limited to the following:
  - a. Proposals for a different type of housing or commercial development than contemplated in the original, approved site plan approval or in any comparable change which would materially impact the estimated public service costs or tax revenues associated with the approved development to the detriment of the Town.
  - b. Substantive changes to the pattern and location of buildings or layout of streets, access points, or utilities and infrastructure.
  - c. Any change which would materially detract from the quality of the natural environment, materially intensify the impact to area infrastructure, or materially detract from the economies of providing public services or facilities to the contemplated development.

4. The Planning Commission or Zoning Administrator is under no obligation to approve an amendment to an approved site plan. In reviewing said request, the Planning Commission or Zoning Administrator shall take into consideration changes to and the status of area land use development, infrastructure, and the Town's Comprehensive Plan which may have occurred between the time the site plan was approved and the request for an amendment.

**B. Major Amendment to Category 1 Site Plan**

If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be major, the applicant shall submit new drawings to the Zoning Administrator, who shall distribute the drawings to the appropriate agencies or individuals for comment. Obtaining agency approvals other than the Town shall be the responsibility of the applicant. The proposed amendment shall be approved or denied by the Planning Commission.

**C. Minor Amendment to Category 1 Site Plan**

If the site plan to be amended is a Category 1 Site Plan and the amendment is determined to be minor, the applicant shall indicate the change on the previously approved plan and submit the amended plan to the Zoning Administrator who may distribute the plan to the appropriate agencies or individuals for comment. The Zoning Administrator may approve or reject the amendment or at his/her discretion, transmit the amended plan to the Planning Commission for its review and decision.

**D. Amendment to Category 2 Site Plan**

The Zoning Administrator shall approve or reject any amendment to a Category 2 site plan unless it is found to be a substantive change under §3.1.9A3.

### **§ 3.1.10 Expiration of Approved Site Plan**

A site plan approval shall become null and void unless a building permit has been issued for the proposed development within two years from the date of the approval. The Planning Commission may for good cause grant a one-year extension for a Category 1 site plan upon consideration of the criteria set forth in §3.2.2A3 of this Ordinance. The Zoning Administrator may for good cause grant a one-year extension for a Category 2 site plan upon consideration of the criteria set forth in §3.2.2A3 of this Ordinance. The applicant must request an extension at least 30 days prior to the expiration date.

## **§ 3.2 Subdivision Review and Approval**

### **§ 3.2.1 Subdivision Review and Approval**

#### **A. Purpose**

Subdivisions plats prepared and approved in accordance with the provisions of this Ordinance, shall be required to assist in the review of applications for land subdivision and to assure compliance with all applicable requirements.

#### **B. Applicability**

No land in a subdivision shall be sold or offered for sale nor shall a building permit be issued for a structure thereon until a final plat of such subdivision has been recorded per this Ordinance and the improvements required in connection with such subdivision have either been constructed or guaranteed per this Ordinance.

#### **C. Major and Minor Subdivisions Administration**

1. Minor Subdivisions, lot line adjustments, and conversions of existing deeded lots to parcels shall be reviewed according to procedures set forth in §3.1.7 of this Ordinance.
2. Major Subdivisions shall be reviewed and approved according to the procedures set forth in Section §3.2.2 below.

### **§ 3.2.2 Subdivision Processing Procedures**

There shall be three stages in the review and approval of a major subdivision: concept, preliminary, and final plat.

#### **A. Concept Stage**

The purpose of the concept stage is to provide the Planning Commission with the opportunity to informally review a subdivision proposal prior to the substantial commitment of time and expense on the part of the applicant in preparing a preliminary plat.

1. No application for subdivision approval shall be accepted by the Town until:
  - a. A concept subdivision plat meeting the content submittal requirements of §3.1.4 of this Ordinance is submitted for review by the Town.

- b. Any required concept plat review fees have been paid.
  - c. The steps for concept subdivision plat review as established by the Planning Commission are completed.
- 2. Within 30 days of receiving a subdivision concept plat, the Zoning Administrator shall review the concept for completeness and inform the applicant and Planning Commission of his/her findings.
- 3. The Zoning Administrator shall refer the concept plat to the appropriate individuals or agencies for review and/or comment prior to submitting it to the Planning Commission.
- 4. The applicant shall attend a meeting with the Zoning Administrator prior to submitting the concept plat to the Planning Commission. The purpose of the meeting shall be to provide the Town with an opportunity to address issues or concerns, identify any impact studies that may be required, and provide direction to the applicant on the scope of such studies.
- 5. The Planning Commission shall hold at least one meeting on the concept plat to receive an informational briefing on the plat and the anticipated issues and impacts related thereto. The Planning Commission shall take no action to approve or deny a concept plat. Should the Planning Commission determine that the development project represented by the concept plat may have substantial impact on the physical, economic, or social environment the Planning Commission may hold more than one meeting on the concept plat.
- 6. For all major subdivision plats submitted for review, the Zoning Administrator shall:
  - a. Submit written notice to the applicant by first class mail, such to be postmarked at least seven days before the day of the Planning Commission meeting to discuss the concept site plan, and
  - b. Submit written notice to all owners of property adjoining and immediately across the street from the subject property. Such written notice shall state the date, time, place, and subject matter of the meeting to discuss the concept plat, and the name of the applicant. Such notice shall be sent by first class mail and be postmarked not less than seven days before the day of the meeting.
  - c. The Planning Commission may provide for expanded public notification of its deliberations of subdivision plans at its discretion.

## **B. Preliminary Stage**

The purpose of the preliminary subdivision review stage is to provide a basis for the Planning Commission to take formal approving action with respect to the proposed subdivision in order to minimize changes and revisions which might otherwise be necessary on the final subdivision

plan. The Planning Commission shall review and take action to approve, approve with conditions, or deny all preliminary subdivision plats.

1. Preliminary subdivision plats meeting the submittal requirements set forth in §3.1.5 of this Ordinance shall be submitted to the Zoning Administrator who shall review the plats for compliance with these regulations and the requirements for preliminary plats and shall transmit said plats to the Planning Commission with his or her comments for review. Applications found to be incomplete shall be returned to the applicant.
2. The Planning Commission shall examine the proposed subdivision with respect to the traffic and circulation patterns and safety (internal and external), utilities, stormwater management, community facilities (existing or proposed), surrounding development (existing or future), the preservation of trees and historic sites, protection of natural environmental features and processes, provision for open space, street lighting, recreational needs, safety of residents and neighbors, landscaping, architecture, compatibility with building site and design standards, and, in general, with the objective of ensuring a durable, harmonious, and appropriate use of the land and consistency with the Comprehensive Plan.
3. The Planning Commission shall take action to approve, approve with conditions, or deny approval, but shall take no action until the following has occurred:
  - a. The Zoning Administrator has reviewed the subdivision plat and determined that it is complete and submitted findings to that effect in writing to the Planning Commission.
  - b. The Applicant has submitted any impact studies that may be required and has obtained Town approval of such studies, where required.
  - c. Comments from appropriate agencies and individuals have been requested and sufficient time has been provided for such agencies and individuals to provide comments.
  - d. The applicant has paid all appropriate preliminary subdivision review and application fees to the Town.
4. No public hearing shall be required, but may be called at the option of the Planning Commission.
5. Planning Commission Action: The Planning Commission shall act for approval, conditional approval with conditions noted, postponement, or disapproval. Reasons for all actions shall be stated in the decision of the Planning Commission. The following actions shall have the meanings so stated:
  - a. Approval means that the developer is authorized to proceed with the preparation of a final plat. Preliminary plat approval grants an applicant one (1) year within which to submit a final plat.

- b. Conditional Approval means that applicant may proceed with a final plat, but only after the preliminary plat has been corrected to reflect all conditions placed on the plat by the action of the Planning Commission. Actual approval shall not be made until the Planning Commission finds that all such conditions have been satisfied.
- c. Postponement means Planning Commission action is delayed for definite reasons which the Planning Commission shall record in writing.
- d. Disapproval means disapproval of the plat. For any further action, the developer must file a new application meeting the submittal requirements along with the required filing fees.

### **C. Final Stage**

The final subdivision plan shall consist of a drawing intended for recordation, incorporating those changes or additions required by the Planning Commission in its approval of the Preliminary Subdivision Plat.

- 1. Final subdivision plats shall be submitted to the Zoning Administrator who shall review the plats for compliance with these regulations and the conditions, if any, of Planning Commission approval. If specified conditions or stipulations of the preliminary plat approval are not met in revised plans, the Zoning Administrator shall return the plat to the applicant.
- 2. When all review and approvals have been completed and documentation of such approvals provided to the Zoning Administrator, he or she and the Chairperson of the Planning Commission, shall each sign the final plat to indicate completion of review and approval by the Town and to certify that conditions, if any, of plat approval have been met and that the applicant has submitted all local, county, state and/or federal approvals as may be required. No permit shall be issued until this approval has been given.
- 3. When a public works agreement is required, the Zoning Administrator and Chairperson of the Planning Commission may not certify final plan approval until that public works agreement has been signed by the applicant and the Town.

## **§3.2.3 Expiration and Extension of Preliminary Plat Approval**

### **A. Grant of Extension**

- 1. A preliminary plat approval grants the applicant one year in which the applicant shall submit the final plat.

2. Before expiration of the approval, the Planning Commission may grant an extension for just cause, with extension periods no greater than one year at a time. The applicant shall request an extension at least 30 days prior to the deadline date for submittal of a final plat.
3. In connection with a request for extension, the Planning Commission shall consider the following:
  - a. Whether a lawful change in the neighborhood of the property has made the subdivision, as originally approved, incompatible with neighboring properties or presented impacts to neighboring properties and infrastructure not foreseen before such land use change occurred; and
  - b. Whether a change in the street and highway plan or the plan for any public facilities and/or services, or the projected impact of area development on streets, highways, water and sewer and other facilities has made the subdivision, as originally proposed, problematic; and
  - c. Any change in zoning and/or subdivision regulations; and
  - d. Any changes in the Town Comprehensive Plan.
  - e. The Planning Commission may require that an impact study as provided in §3.3 of this Ordinance be completed in connection with a request for an extension.

**B. Changes May be Required**

In conjunction with an approved extension, the Planning Commission may require that changes in the plat be made upon finding that time has necessitated changes for the benefit of the public health, safety, and welfare.

**C. Expiration of Extension Period**

Upon expiration of any extension period approved herein, the plat shall be deemed disapproved by the Planning Commission.

**D. Approved Plats exempted from Regulatory Changes**

Any approved Preliminary Plat or any plat continued for further study by the Planning Commission shall be exempted from changes in the regulations governing subdivisions for a period of two years from the date of approval of the Preliminary Plat. Exemptions from changes in the subdivision regulations shall not be extended, even if the Preliminary Plat is extended as provided above.

## **§ 3.2.4 Submittal Requirements**

### **A. Concept Plat Requirements**

The concept subdivision plat package shall meet the requirements as to content and organization as may be established by the Planning Commission and at minimum shall include the following:

1. A plan of lot subdivision, and
2. The contents set forth in Section §3.1.4 of this Ordinance.

### **B. Preliminary Plat Requirements**

1. Order of Plan Sheets: Preliminary subdivision plat submittals shall adhere to the order of plan sheets established by the Planning Commission with any additional required details and plan drawings inserted into the order prescribed by the Town.
2. Contents of Preliminary Plat:
  - a. The applicant shall submit a preliminary subdivision plat to show the nature and extent of all contemplated improvements and lot subdivisions, to be developed from the concept plat and each of the specific contents set forth in §3.1.5B of this Ordinance.
  - b. The plat shall be a multiple sheet document with drawings on sheets no larger than 24 inches by 36 inches and at a scale no less detailed than 1 inch equal to 100 feet. Submittals shall meet specific technical requirements as may be set forth in the Town design and construction standards.
  - c. A preliminary plat shall show the location of all existing and proposed recorded easements and rights-of-way that affect the property and a citation of any recorded easements, restrictions, reservations or covenants that affect the property.

### **C. Final Plat Requirements**

The applicant shall prepare and submit a Final Subdivision Plat. The final plat shall comply with all existing laws, regulations, and ordinances governing the approval of subdivision plats and provide accurate dimensions and construction specifications to provide the data necessary for the issuance of building permits.

1. In addition to meeting the submittal requirements of a preliminary subdivision plat, the final plat shall meet all specific technical plan submittal requirements as may be required by the Town.
2. Submittals shall demonstrate compliance with any conditions of preliminary plat approval and shall include all necessary approvals from any local, county, state, and/or federal agencies.
3. As a condition of final plat approval, the Planning Commission may establish additional submittal requirements for a final plan, and may waive, a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
4. Final subdivision plat submittals shall adhere to the order of plan sheets required of preliminary plats as provided in this Ordinance with any additional required details and plan drawings inserted into the order prescribed by the Town.

**D. Platting as Pertains to the Original Tract**

1. The Planning Commission shall require that the remaining original tract be shown as stated in the appropriate paragraph below.
  - a. If less than five acres of land remain in the original tract after the lots are excluded then the entire tract (lots and the remainder) must be platted.
  - b. If more than five acres of land remain in the original tract after the lots are excluded then the owner is not required to plat the remaining acreage.
2. The owner is required to submit a plan showing the entire acreage and the location of lots being platted and any previous platted lots. The owner is required to keep this plan current with the process of subdivision approval and platting.

## §3.3      **Impact Studies**

### §3.3.1      **Impact Studies May Be Required**

#### **A.      Impact Studies**

To assist the Planning Commission and Zoning Administrator to determine the nature and extent of off-site impacts of a proposed development they are authorized to review, both are authorized to require applicants for development plan or plat approval, or for extensions of approved plans or plats, to prepare studies of the impacts of proposed development on such factors including Town infrastructure such as water and sewer, streets, and highways in the Town and in the vicinity of the development, the Town's fiscal and budget conditions, area environmental conditions including considerations related to light, air, view sheds, and the flow and quality of water.

#### **B.      Reasonable Standards**

The Planning Commission and Zoning Administrator shall find that such studies meet reasonable professional and technical standards before accepting them for review. The Town may establish written standards and specifications for the scope and detail necessary for any required studies.

#### **C.      Studies Submitted Prior to Approval**

If impact studies plans are determined to be required, no preliminary site plan or subdivision plat shall be approved nor shall an approved plan be extended, prior to such studies being completed to the satisfaction of the Planning Commission or other approving authority or appropriate official.

## § 3.4      **Annexation Plan Review**

### § 3.4.1      **Annexation Review**

#### **A.      Applicability**

No annexation resolution shall be acted on by the Town Council until the Planning Commission shall have had the opportunity to review the proposed annexation and the concept development plan, if applicable as may be required by §3.4.2 of this Ordinance, and provide a recommendation to the Town Council.

#### **B.      Planning Commission Review**

The Planning Commission shall make findings of fact with respect to the each of the following and shall forward such findings along with its recommendation to the Town Council for its consideration.

1.      The degree of conformance of the proposed annexation to the Comprehensive Plan in general and the Plan's adopted Municipal Growth Element in particular.
2.      The existing and future availability of public facilities and services to meet the demands of development which would be allowed under the recommended zoning of the annexation property.
3.      The viability and practicality of public and/or private plans to extend, enlarge, or otherwise make existing Town facilities and services, and other utilities and services available to the annexation property.
4.      The impact of the contemplated development of the annexation property on the Town's fiscal condition and budget.

#### **C.      Planning Commission Recommendation**

1.      The Planning Commission's written recommendation to the Town Council on each annexation shall address the following:
  - a.      Whether the annexation should be approved or denied by the Town Council and any conditions related thereto.
  - b.      If applicable, whether the concept development plan is favorable and what changes if any should be made thereto prior to approval of the annexation.

- c. The impact of the annexation on the planning and timing of infrastructure and the Town's budget plan for infrastructure development.
2. The Planning Commission shall propose a zoning classification for the property.

### **§ 3.4.2 Annexation Concept Development Plan**

#### **A. Concept Plan Required**

1. A concept development plan, prepared to standards established by the Planning Commission, shall be required to assist the Town in the review of any proposed annexation wherein the Town is not the initiating party.
2. Where applicable, a concept development plan shall be officially introduced by the Town Council along with the annexation resolution, it shall be made part of the official record of the public hearing on the annexation and it shall be recorded in the land records of Cecil County by the applicant upon annexation.

#### **B. Exceptions to Required Concept Development Plan**

The following two conditions must be found by the Town Council to be met, if an annexation is to proceed without a concept development plan:

1. The eventual use of the property and its impact on its neighborhood is constrained by its relatively small size, and the proposed zoning is fully consistent and compatible with the surrounding land use pattern; and
2. Adequate safeguards can be set forth in the text of an annexation agreement to ensure that the Town's interests are protected and advanced.

#### **C. Future Development to Conform to Concept Development Plan**

1. When a site plan or subdivision plat is proposed for a property which was the subject of an annexation concept development plan, the plan or plat shall substantively conform to the annexation concept development plan.
2. The Zoning Administrator or Planning Commission shall not accept a site plan or subdivision plat for review that does not substantively conform to its concept development plan as set forth in paragraph D of this section, except as provided in paragraph 3 below.

3. The Planning Commission may accept a site plan or subdivision plat for review that does not substantively conform with a required annexation plan if each of the following conditions is met:
  - a. The Planning Commission first holds a public hearing wherein the applicant shall be asked to explain the proposed deviations; and
  - b. The Planning Commission finds that the proposed deviations are not inconsistent with the Town Comprehensive Plan; and
  - c. The proposed deviations would not materially impact the ability of the Town to provide public water and sanitary sewer services or other services and facilities, and
  - e. The proposed deviations would not require a change in the zoning district to implement.
4. The Planning Commission is under no obligation to approve a plan or plat that deviates from an annexation concept development plan but, provided the conditions in paragraph 3 above are met, it shall review the plan or plat under the standard processing procedures provided for in this Article.

#### **D. Standards for Substantial Conformance**

The Planning Commission shall apply the standards in this paragraph below in determining if a site plan or subdivision plat is in substantial conformance with its annexation concept plan, if applicable. To be found in substantial conformance, a development plan shall not:

1. Propose a land use, a pattern of residential densities, or an arrangement of land uses other than that shown on the concept development plan.
2. Propose a different type of housing or commercial development which would in the judgment of the Planning Commission (1) materially increase the impact to area infrastructure and public services or (2) not serve the same public need contemplated by concept development plan (e.g. need for affordable housing, senior housing, etc.).
3. Result in the reduction of more than three percent or one-half (½) acre (whichever is the lesser) of the land area collectively planned to be set aside for natural area preservation, buffering, forest conservation, common open space, and/or recreation.
4. Increase the number of dwelling units by more than five percent for any residential project of 100 units or less, or more than three percent for any residential project of more than 100 dwelling units.

5. Increase the square footage of non-residential building space in a manner which would in the judgment of the Planning Commission materially increase the impact to the natural environment or materially intensify the impact to area infrastructure and/or public services or affect the ability of public service providers to adequately serve the proposed development.
6. Increase the amount of impervious surface area by more than five percent for any project less than 40 acres in size or by more than three percent for any project larger than 40 acres.
7. Materially change the arrangement of streets, sidewalks, and trails, the general location of intersection(s), and the proposed access /circulation plan for the site.
8. Change in any material way the extent, scale, provision, or timing of any off-site infrastructure project required or contemplated by the concept development plan or annexation agreement if applicable.

## Article 4

### Zoning Districts and Allowable Uses

## §4.1 Zoning Map

### § 4.1.1 Zoning Map

#### A. General

The Article establishes the zoning districts applied to property within the Town and adopts the Official Zoning Map.

#### B. Zoning Map Adopted by Reference

1. An Official Zoning Map which shall be kept on file in the Town offices is hereby incorporated by reference into this Ordinance as if it were included here. It shall be identified by the signature of the Mayor and shall bear the seal of the Town.
2. The Zoning Administrator shall keep current official Critical Area Overlay District Maps in the Town Office, making such maps available upon request of any person.

#### C. Rules for Interpretation of Boundaries

Where uncertainty exists as to the boundaries of zones as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following Town limits shall be construed following Town limits.
4. Boundaries indicated as parallel to or extensions of features indicated in subsections A through C above shall be so construed. The scale of the map shall determine distances not specifically indicated on the Official Zoning Map.
5. Where a lot is divided by one or more zone boundary lines, each of said divisions of the lot shall be subject to the regulations of the district in which it is located.

6. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 5 above, the Board of Appeals shall interpret the district boundaries.

**D. Replacement of Official Zoning Map**

1. In the event that the Official Zoning Map becomes damaged, destroyed, lost or becomes difficult to interpret because of the nature of number of changes and additions, the Town Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map.
2. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map and may incorporate validly enacted amendments, but no such correction shall itself have the effect of amending the original zoning ordinance or any subsequent amendment thereof.
3. The Planning Commission shall certify as to the accuracy of the new Official Zoning Map prior to its adoption by the Town Council.

**§ 4.1.2 Zoning of Annexed Lands**

When lands are proposed for annexation to the Town, the Planning Commission, concurrently with the annexation proceedings, shall propose district boundaries for the new lands. Upon adoption of the resolution for annexation, the Town Council shall amend this Ordinance to zone the new lands with the effective date of amendment to be that of annexation.

## § 4.2 Districts and Allowable Uses

### § 4.2.1 Town Divided into Zoning Districts

#### A. Districting to Implement the Comprehensive Plan

The Town of Chesapeake City shall be divided into zoning district for the purpose of implementing the adopted Comprehensive Plan. The districts shall be shown on the Official Zoning Map.

#### B. Purposes of Zoning Districts

The purposes of the individual zoning districts and the manner in which they are to be applied are as follows:

1. Traditional Neighborhood Development: The Traditional Neighborhood Development (TND) district is applied to both areas of the Town intended to be maintained as residential neighborhoods and to areas which may develop in the future as residential neighborhoods. The district regulations are intended to promote and sustain healthy, stable, and harmonious residential neighborhoods, reflective of the pattern of street and lot layout and development traditional to Chesapeake City.
2. Village Center: The Village Center (V-1) district is applied to the mixed-use historic center of Chesapeake City and applied to areas intended to be developed with a similar pattern and character. The district regulation are intended to promote consistency in architecture and town design, a broad mixture of compatible land use types arranged on smaller lots in a way that fosters efficient use of land, a walkable community, and compatible architecture in a predominantly residential neighborhood.
3. Village Commercial: The Village Commercial (V-2) district is applied to areas of the Town to promote the efficient and harmonious development of commercial land uses while accommodating higher density residential developments located within walking distance of shopping, employment, and recreational activities.
4. General Commercial: The General Commercial district (GC) is applied to areas of the Town to accommodate expansion of a broad variety of commercial uses that may benefit from orientation to the highway and to promote an arrangement of such uses that protects the safety and efficiency of MD Route 213.

5. Marine Commercial: The Marine Commercial district (MC) is applied to certain areas of the Town that lie adjacent to the C&D Canal to accommodate the presence and expansion of uses that are related to and that uniquely benefit from location on the water.
6. Resource Conservation: The Resource Conservation district (RC) is applied to areas of the Town that have natural, scenic, or other environmental and open space benefits to the community. District regulations are intended to protect naturally sensitive environmental and scenic areas, and provided locations for the establishment of recreational, cultural, scientific, institutional, and resort uses whose development and use will have negligible impacts to the environment.

## **§ 4.2.2 Land Uses by District**

Table 1 lists the different land uses and the zoning districts in which they are permitted. If a use is not listed or does not fall within any of the general use categories, it is not a permitted use in any district. If a use is specifically listed in Table 1, it takes precedence over general use listings. The letters in Table 1 correspond to the following:

P: Permitted Use: Uses designated by the letter “P” shall be permitted subject to all applicable regulations.

PC: Conditional Use: Uses designated by the letter “PC” shall be permitted subject to certain conditions. The conditions are listed §4.2.3.

SE: Special Exceptions. The Board of Appeals in accordance with §2.27 may authorize uses requiring a special exception designated by the letter “SE”.

SC: Special Exception with Conditions. Uses requiring a special exception designated with the letters “SC” may be authorized by the Board of Appeals in accordance with §2.2.7 subject to certain conditions listed in §4.2.3.

TABLE 1 (Part 1 of 4)		P: Permitted PC: Permitted, subject to conditions SE: Special Exception  SC: Special Exception, subject to conditions						
Land Use		Zoning Districts						Use Regs.
		TND	V-1	V-2	GC	MC	RC	
Residential								
Single Family Residences								
Single family residential - detached	P	P				P		
Single family residential - attached (Townhouse)	SC	P	P				Sect. 4.2.3A1	
Two-family Residences								
Two-family, duplex	P	P						
Primary residence with accessory apartment	P	P				P		
Secondary residential structure auxiliary to existing house	P	P				P		
Multi-Family Buildings	SC	P	P				Sect. 4.2.3A2	
Residential uses emphasizing special services, treatment, or supervision								
Group Home	P	P	P			P		
Halfway House				P				
Intermediate Care Institutions	SE	P	P			P		
Day Care								
Day care home (fewer than 7 people)	P	P	P			P		
Day care center, day nursery (between 7 and 16 people)	PC	PC	PC	PC		PC	Sect. 4.2.3A3	
Day care center, day nursery (between 16 and 30 people)		PC	PC	PC		PC	Sect. 4.2.3A3	
Homeless Shelter <sup>1</sup>		SE	SE	SE				
Bed and Breakfast and Country Inns	P	P	P	P	P			
Home Occupations	PC	PC	PC			PC	Sect. 4.2.3A4	

<sup>1</sup>Permitted as an accessory use to "Churches and Other Buildings for Religious Assembly" in the TND zoning district.

<b>TABLE 1 (Part 2 of 4)</b> <b>PERMITTED USES BY ZONING DISTRICT</b>	P: Permitted PC: Permitted, subject to conditions SE: Special Exception SC: Special Exception, subject to conditions						
	<b>Land Use</b>	<b>Zoning Districts</b>					<b>Use Regs.</b>
		<b>TND</b>	<b>V-1</b>	<b>V-2</b>	<b>GC</b>	<b>MC</b>	<b>RC</b>

<b>Commercial, Office, and Service</b>							
Artist and photographer galleries (retail) and studios, dance/music studios		P	P	P			
Retail Shops, including service/repair such as clock, jewelry		P	P	P			
Convenience, grocery, department, variety, hardware, dry goods stores		P	P	P			
Pet Shops				P			
Nursery for plants, greenhouses			PC	P		P	Sect. 4.2.3B1
Banks, financial institutions		P	P	P			
Personal service shops and services, such as barber, salon, Laundromat, health and fitness center, spa		P	P	P			
Professional office		P	P	P			
Medical, dental clinics or physicians/dentist offices		P	P	P			
Business offices, including finance, insurance, real estate		P	P	P			
Business services, plumbing shops, contractor shops				P			
Small-scale manufacturing and assembly such as cabinet making, furniture upholstery; printing, publishing; warehousing				PC	PC		Sect. 4.2.3B2
Television, radio, computer repair shops, small appliance repair, similar		P	P	P			
Building material and supply, boat sales, farm implements storage and sales, feed and grain storage and sales, heavy equipment sales and service				P			
Animal hospital, veterinarian clinic				PC			Sect. 4.2.3B3
Kennel, Cattery				PC			Sect. 4.2.3B4
Funeral Parlor				P			
Motor vehicle sales or rental				P			
Marina uses including boat sales and repair, storage, marine-related manufacturing and marine-related business offices				P	P		
Filling stations, service stations				PC			Sect. 4.2.3B5
Automotive body shop				SC			Sect. 4.2.3B6
Restaurants, standard		P	P	P	P		
Restaurants, fast food, drive-in, drive thru			P	P			
Hotels, motels, convention centers, and similar businesses and institutions providing overnight accommodations		P	P	P	P		
Resorts			P	P	P	P	
Pubs, bars, dance halls, nightclubs, cocktail lounges		PC	PC	P	P		Sect. 4.2.3B7

TABLE 1 (Part 3 of 4) PERMITTED USES BY ZONING DISTRICT	P: Permitted PC: Permitted, subject to conditions SE: Special Exception SC: Special Exception, subject to conditions						
	Zoning Districts						Use Regs.
	TND	V-1	V-2	GC	MC	RC	

Institutional							
Schools							
Elementary and secondary (including pre-school, kindergarten, associated grounds and athletic and other facilities)	PC	PC	PC	PC		PC	Sect. 4.2.3C1
Trade and Vocational Schools				P	P		
Colleges, universities, community colleges (including associated facilities such as dormitories, office buildings, athletic fields, etc.)						SE	
Churches and other buildings for religious assembly (including associated residential structures for religious personnel and associated buildings but not including elementary or secondary school buildings)	P	P	P	P	P	P	
Social and fraternal clubs and lodges, philanthropic institutions			SE	SE			
Intermediate Care Institutions	SE	P	P	P		P	
Nursery Schools, Day Care Centers with more than 30 children	SE	P	P	P		P	
Hospitals, clinics, other medical (including mental health) treatment facilities in excess of 10,000 square feet of floor area			SE	SE			
Nursing Care Institutions, Child Care Institutions	SE	SE	SE			P	
Libraries, other public administrative and cultural buildings	SE	P	P	P		P	
Museums, art galleries, art centers, and similar uses (including associated educational and instructional activities)	SE	P	P			P	
Art or cultural center	SE	P	P			P	

Recreation, Amusements, Entertainment							
Activity conducted entirely within building or substantial structure							
Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, rifle and pistol ranges, indoor athletic and exercise facilities and similar uses			P	P		P	
Cinema, movie theaters			P	P			
Activity conducted primarily outside enclosed buildings or structures							
Privately owned and operated outdoor recreational facilities such as golf courses, and country clubs, swimming or tennis clubs, rifle and pistol ranges, etc. not constructed pursuant to a permit authorizing the construction of some residential development		SE	SE		SE	SE	
Publicly owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc. not constructed pursuant to a permit authorizing the construction of another use such as a school	P	SE	SE	SE	SE	SE	
Golf Driving Range						P	
Swimming Pool, community	SE	SE	SE	SE	SE	P	

<b>TABLE 1 (Part 4 of 4)</b> <b>PERMITTED USES BY ZONING DISTRICT</b>	P: Permitted PC: Permitted, subject to conditions SE: Special Exception SC: Special Exception, subject to conditions						
Land Use	Zoning Districts						Use Regs.
	TND	V-1	V-2	GC	MC	RC	

<b>Emergency Services</b>							
Police Stations	SE	SE	P	P	P		
Fire Stations	SE	SE	P	P	P		
Rescue squad, ambulance service	SE	SE	P	P	P		
Civil defense operation	SE	SE	P	P	P		

<b>Miscellaneous Uses</b>							
Utilities							
Neighborhoods Service	P	P	P	P	P	P	
Water or sewerage treatment facilities	P	P	P	P	P	P	
Public utility building and structures	P	P	P	P	P	P	
Public utility building and structures with towers or antennas					SC	SC	Sect. 4.2.3D1
Temporary Structures incidental to construction (non-residential)	PC	PC	PC	PC	PC	PC	Sect. 4.2.3D2
Christmas tree sales	P	P	P	P	P	P	

### § 4.2.3 Standards for Conditional and Special Exception Uses

The following conditions and specific standards apply to land uses designated PC (Conditional) SE (Special Exception) and SC (Special Exception with Conditions) in Table 1 of this Ordinance. The applicable conditions shall be satisfied during the period of the use and occupancy.

#### A. Residential Uses

##### 1. Single-Family Attached, Townhouses

Subject to the following conditions, townhouse developments shall be permitted as a Special Exception Use (SC) in the TND district:

- a. A minimum of 30 percent of the total tract area shall be maintained as open area and shall not be devoted to service driveways, off street parking, or loading spaces. It is further provided that 25 percent of the open area shall be suitable for usable recreational space and each recreational space shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.
- b. The front setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.

- c. The minimum setback between any two principal buildings on the same lot shall be 25 feet.
- d. The minimum lot area for the development shall be one acre.

2. Multi-family Buildings

Subject to the following conditions, multi-family buildings shall be permitted as a Special Exception Use (SC) in the TND district.

- a. A minimum of 30 percent of the total tract area shall be maintained as open area and shall not be devoted to service driveways, off street parking, or loading spaces. It is further provided that 25 percent of the open area is suitable for usable recreational space and each recreational space shall be at least 50 feet in the least dimension with a minimum area of 5,000 square feet.
- b. The front setback shall be exclusively devoted to landscaping and open area and shall not be occupied by any building, structure, or off-street parking area.
- c. The minimum setback between any two principal buildings on the same lot shall be 25 feet.

3. Day Care Centers (Child or Elderly Care Centers)

- a. Subject to the following conditions, child or elderly care centers serving between 7 and 16 individuals shall be permitted in the TND District and centers serving between 7 and 30 individuals shall be permitted in the V-1, V-2, C and RC Districts as a Conditional Use (PC):
- b. At least 200 square feet of usable outdoor recreational area shall be provided per individual that may use the center at any one time. Recreational areas shall not include the required front yard of the property or any off-street parking areas.
- c. All such uses shall be located so as to permit the safe pickup and delivery of all people on this site.
- d. The area of the property shall contain no less than 1,000 square feet per individual that may use the center at any one time.
- e. The requirements of these sections shall not apply to child or elderly day care facilities or centers that are operated by a non-profit organization in buildings, structures, or on premises owned or leased by a religious organization and which premises are regularly used as a place of worship or are located on premises owned or leased by a religious organization adjacent to premises regularly used as a place of worship, or are used for private parochial educational purposes that are exempted under the provisions of this section for private educational institutions or are located in publicly owned school buildings.

4. Home Occupations

Subject to the following conditions, home occupations shall be permitted in the TND, V-1, V-2, and RC districts as a Conditional Use (PC):

- a. Not more than one person other than members of the family residing on the premises shall be engaged in such occupation.
- b. There shall be no change in the outside appearance of the building or premises, other than one sign. Residential appearance shall be maintained and the proposed development shall be in keeping with the character of the neighborhood.
- c. No equipment, process, or occupation shall be used which creates noise, vibration, glare, fumes, odors, or electrical interference detectable outside of the dwelling unit.
- d. No more than 25 percent of the floor area of the dwelling, including an attached garage, may be used for the home occupation.
- e. No article of commodity shall be offered for sale, except that incidental to services offered, or publicly displayed on the premises.
- f. Parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- g. A private educational institution, boardinghouse, rooming house, or tourist home shall not be deemed a home occupation.

**B. Commercial Uses**

1. Nursery for Plants, Greenhouses

Subject to the following conditions, nurseries for plants and greenhouses shall be permitted in the V-2 district as a Conditional Use (PC):

- a. The sale of plants, trees, shrubs, seeds, fertilizers, plant foods, hand tools, hand spraying and watering equipment, and pesticides directly related to residential gardening shall be permitted, provided that such tools and equipment are not displayed outdoors.
- b. No such horticultural nursery or commercial greenhouse shall be located on a tract of land containing less than two acres
- c. No part of any building thereon shall be less than 50 feet from the nearest property line.
- d. Greenhouses shall have a minimum setback of twice the height of the building
- e. Storage of all materials which produce odors or attract pests shall be covered.

2. Small Scale Manufacturing and Assembly

Subject to the following conditions, small scale manufacturing and assembly uses shall be permitted in the C and MC districts as a Conditions Use (PC):

- a. Minimum lot area shall be 10,000 square feet and minimum lot width shall be 150 feet.
- b. All manufacturing and assembly shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured or sold on the premises may be stored in the open only if screened from the street by landscaping, fences, or walls.
- c. Notwithstanding the yard regulations for the district, no part of any building, accessory structure, or sign shall be located closer than one hundred (100) feet to any dwelling.
- d. No parking or storage of material or products shall be permitted in the required front yard.

3. Animal Hospital, Veterinarian Clinic

Subject to the following conditions, animal hospital and veterinarian clinic uses shall be permitted in the C district as a Conditional Use (PC):

- a. Minimum lot area shall be 20,000 square feet.
- b. All operations in connection with the clinic must be conducted indoors.
- c. Screening and vegetative landscaping shall be used along lots lines which adjoin a residential lot a residential zoning district.
- d. No work on large animals (bovine or equine) is to be performed on the premises.

4. Kennel, Cattery

Subject to the following conditions, a kennel and cattery shall be permitted in the C and RC districts as a Conditional Use (PC):

- a. A kennel/cattery shall not be a free-standing establishment but instead an ancillary use to an animal hospital or veterinarian clinic and primarily operated in a manner that supports the animal hospital or veterinarian clinic use.
- b. The kennel/cattery operator shall follow all applicable regulations of the Cecil County Animal Control Ordinance.

5. Filling Stations, Service Stations

Subject to the following conditions, filling station and service station shall be permitted in the and GC and MC districts as a Conditional Use (PC):

- a. No fuel pump, oil draining pit, or other vehicle appliance for serving automobiles shall be located within 25 feet from the front property line.
- b. Bulk storage of flammable liquids shall be underground.
- c. The entrance and exit of any such establishment shall be at least 50 feet from any residential lot.
- d. No storage or stockpiling of tires or any trash shall be permitted.
- e. All inoperative vehicles shall be completely screened from view of rights-of-way and adjoining properties.
- f. An area, enclosed by a wall or fence, screened from view of adjoining properties and rights-of-way shall be established whenever outdoor storage is required.
- g. No fuel pumps, structures or buildings shall be erected within 150 feet of any dwelling.
- h. All lights shall be diverted toward the station and downward on the lot.
- i. No storage or stockpiling of tires or any trash shall be permitted.

6. Automotive Body Shop

Subject to the following conditions, an automotive body shop shall be permitted in the MC district as a Conditional Use (PC), subject to the following conditions:

- a. Vegetative screening and buffers shall be provided where the lot abuts residentially used properties or a residential zoning district.
- b. No gasoline shall be dispensed.
- c. All lights shall be diverted toward the facility or downward on the lot.
- d. A low screening wall and/or hedge shall be provided along all rights-of-way, except at points of vehicular access to the lot and except where vehicular sight distance might be compromised.
- e. There shall be no bulk storage of flammable liquids on the premises.
- f. No storage or stockpiling of tires or any trash shall be permitted.

7. Pub, Bar, Nightclub, Dance Hall, and Cocktail Lounge

Subject to the following conditions, a pub, bar, nightclub, dance hall, and cocktail lounges shall be permitted in the V-1 and V-2 districts as a Conditional Use (PC), subject to the following conditions:

- a. Hours of operation shall be limited to midnight.
- b. Maximum allowed noise levels by time of day shall not exceed levels set forth in the Town's Noise Control Ordinance, as may be supplemented or amended from time to time.
- c. Loitering shall not be permitted around the exterior of the establishment.

**C. Educational, Cultural, and Institutional Uses**

1. Elementary and secondary schools (including pre-school, kindergarten, associated grounds, and athletic facilities)

Subject to the following conditions elementary and secondary schools are permitted in the TND, V-1, V-2 and RC districts as a Conditional Use (PC).

- a. Minimum lot area shall be one acre.
- b. In the TND, V-1, and V-2 districts, off-street parking shall be provided in the side or rear yard.
- c. Building coverage shall not exceed 25 percent of the lot.
- d. The maximum attendance (number of students physically present) at any one time shall not exceed one student per 1,000 square feet of the lot area devoted to the use.

**D. Miscellaneous Use**

1. Public Utility Buildings and Public Utility Structures with Towers or Antennas

Subject to the following conditions, a public utility building or public utility structure not otherwise permitted, including radio and television broadcasting stations and towers (but not including electric power transmission or distribution lines carrying in excess of 69,000 volts) shall be a Special Exception use (SC) in the GC and RC districts:

- a. The proposed building or structure at the location selected is necessary for public convenience and service.
- b. The proposed building or structure at the location will not endanger the health and safety of workers and residents in the community and will not substantially impair or prove detrimental to neighboring properties.

- c. Public utility buildings in any predominately residential area shall, whenever practicable, have the exterior appearance of residential buildings and shall have suitable landscaping, screen planting, and fencing, wherever deemed necessary by the Planning Commission.
- d. Any proposed broadcasting tower shall have a setback of one foot from all property lines for every foot of height of the tower, provided that any broadcasting tower lawfully existing prior to the effective date of this Ordinance shall be exempt from the setback limitations imposed by this subsection and may be continued, structurally altered, reconstructed, or enlarged provided that no structural change, repair, addition, alteration, or reconstruction shall result in increasing the height above the then existing structurally designed height.
- e. Examples of public utility buildings and structures for which special exceptions are required under this section are buildings and structures for the occupancy, use, support, or housing of switching equipment, regulators, stationary transformers, and other such devices for supply electric service; telephone offices; railroad, bus, trolley, air, and boat passenger stations; radio or television transmitter towers and stations.
- f. In any residential area, overhead electric power and energy transmission and distribution lines carrying in excess of 69,000 volts may be permitted where:
- g. The proposed use does not have an unduly adverse effect on the general plan for the physical development of the district as embodied in this Ordinance and in the comprehensive plan or portion thereof;
- h. The proposed use will not adversely affect the health and safety of the residents or workers in the area;
- i. The proposed use will have the least possible detrimental effect to the use of development of adjacent properties or the general neighborhood.
- j. In making such findings, the Board shall consider the following factors, and such other factors as the Board may find to be necessary or important to effectuate its review:
  - i. Points at which the proposed line crosses heavily traveled highways or streets, or other arteries of transportation, either existing or proposed;
  - ii. Proximity of the line to schools, churches, theaters, clubs, museums, fair grounds, or other places of assembly, existing or proposed;
  - iii. The amount and probability of low-level flying over the line and nearness of the line to airports and/or heliports, existing or proposed;
  - iv. Any fire hazard or interference with firefighting equipment due to the location and construction of the proposed line;

- v. Proximity of the line to public parks and recreational areas, existing or proposed;
- vi. Effect upon property values of those who will not be compensated for a taking under the laws of the State;
- vii. The effect upon environmental quality and ecological balance of protected watersheds, planned open space between corridors of development and greenbelt areas surrounding community development; and
- viii. Proximity of the line to historic sites and structures.

2. Temporary Structures Incidental to Construction

Subject to the following conditions, Temporary Structures Incidental to Construction shall be permitted in all districts as a Conditional Use (PC):

- a. That it is removed when construction is finished.
- b. That the structure remains for only a period of one year with extensions totaling one year permitted upon application to and approval of the Zoning Administrator.

## §4.3 Historic Area District

### § 4.3.1 Purpose and Applicability

#### A. Purpose of Regulations and District

1. It is the purpose of this Section to establish regulations and procedures necessary to preserve the historic structures and character of Chesapeake City.
2. The purposes of the Historic Area District are as follows:
  - a. To preserve structures of historic and architectural value.
  - b. To safeguard the heritage of Chesapeake City by preserving the district therein which reflects elements of the Town's cultural, social, economic, political or architectural history; to stabilize and improve property values in the historic district; to foster civic beauty; to strengthen the local economy; and to promote the use and preservation of the historic district for the education, welfare and pleasure of the residents of both the Town and surrounding region;
3. It is not the intent of this ordinance to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures.

#### B. Applicability

These provisions shall apply within the Historic Area District as is shown on the Official Zoning Map of Chesapeake City.

#### C. Historic District Commission

1. The establishment and proceedings of the Historic District Commission shall be as provided for in §2.1.4 of this Ordinance.
2. Every application considered by the Historic District Commission shall be accepted or rejected by that Commission.

3. No permit may be granted until the Historic District Commission has first acted thereon and submitted its decision to the Planning Commission. Only upon Planning Commission approval shall a permit be issued.

## **§ 4.3.2 Historic District Commission Permit Required**

### **A. Application**

An application shall include all plans for construction, erection, reconstruction, alteration, excavation and changes in the exterior of the building.

### **B. Procedures**

1. The applicant files an application for a building permit with the Zoning Administrator.
2. After review by the Zoning Administrator to ensure the application conforms to the applicable use regulations, the Zoning Administrator will forward the application to the Chairman of the Historic District Commission.
3. The Zoning Administrator will post a sign on the property. Such sign shall state the date and time that the application about the property shall be considered by the Commission. The notice shall be posted not less than one week before the date of the meeting at which the application will be considered.
4. After hearing from the applicant and any other interested persons at the meeting, the Commission shall, within 30 days of its meeting on the application, make its decision public.
5. The Historic District Commission shall file with the Planning Commission a certificate of its approval, modification or rejection of all applications and plans submitted to it for review. The Historic District Commission may recommend approval subject to such conditions as are necessary to ensure conformity with the provisions and purposes of this section.
6. The applicant shall receive a written notification of the Commission's decision. In the event of a denial of a permit, reasons for such denial shall be included with the written notification.
7. In reviewing applications, the Historic District Commission shall state in writing its findings of fact related to:
  - a. The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;

- b. The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;
- c. The general compatibility of exterior design, arrangement, texture and materials proposed to be used;
- d. The extent to which the building or structure would be harmonious with, or incongruous to, the environmental setting of the Historic District; and
- E. Any other factors including aesthetic and environmental factors which the Committee deems pertinent.

**C. Standards for Exercising Judgment**

- 1. The Historic District Commission shall be strict in its judgment of plans for those structures deemed to be valuable for historic or architectural reasons and lenient in its judgment of plans for structures of little historic value or for plans involving new construction, unless such plans would seriously impair the historic or architectural value of surrounding structures in the surrounding area.
- 2. The Historic District Commission is not required to limit new construction, alteration, or repair to the architectural style of any one period.

**D. Applications for Permits for Structures of Unusual Importance**

If an application is submitted for reconstruction or alteration affecting the exterior appearance of a structure or for the moving or demolition of a structure, the preservation of which the Historic District Commission deems of unusual importance to the Town or of unusual importance to the State or Nation, the Historic District Commission shall attempt with the owner of the structure to formulate an economically feasible plan for the preservation of the structure.

**E. Special Circumstances**

In the case of a structure deemed to be valuable for the period of architecture it represents and it is important to the District, the Commission may approve the proposed reconstruction or alteration despite the fact the changes come within the provisions of paragraph D above, if:

- 1. The structure is a deterrent to a major improvement program which will be of substantial benefit to the Town of Chesapeake City;
- 2. Retention of the structure would cause undue financial hardship to the owner; and/or

3. The retention of the structure would not be in the interest of the Town as provided for in the adopted Comprehensive Plan.

### **§ 4.3.3 Certificates of Approval or Rejection**

#### **A. Certificate Files with Planning Commission**

The Historic District Commission shall file with the Planning Commission a certificate of its approval, modification, or rejection of all applications and plans submitted to it for review. Work shall not be commenced on any such project until such a certificate of approval has been filed by the Commission and further approved by the Planning Commission. The Planning Commission shall not act to approve a project for which the Historic District Commission has filed a certificate of rejection.

#### **B. No Work to Commence without Approval**

The owner, lessee, or tenant of the property and premises shall not commence the proposed work or change until and unless he/she has received a certificate of approval from the Planning Commission and Historic District Commission.

### **§ 4.3.4 Ordinary Maintenance - Work under a Prior Permit**

- A. Nothing in this Part of this Ordinance shall be taken or construed to prevent work or repairs on any structure coming under the heading of ordinary maintenance.
- B. Nothing in this Part affects the right to complete any work covered by permit or authorization issued prior to the effective date of adoption or amendment of this Ordinance, unless otherwise specified.

### **§ 4.3.5 Appeals**

Any person aggrieved by a decision of the Historic District Commission has the right of appeal therefrom, to the Circuit Court which will review the Commission's decision based on the record of the proceedings before the Historic District Commission

### **§ 4.3.6 Architectural Easements**

The Historic District Commission may purchase architectural easements in connection with structures located within or adjacent to the Historic Area District. Such easement shall grant to the Historic District Commission, the residents of the historic district and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.

## Article 5

### Dimensional Requirements and Standards

## § 5.1 Dimensional Requirements

### § 5.1.1 Lot and Bulk Requirements

#### A. General

The Article establishes the size of lots, the density of land use development and the location, dimensional and bulk requirements of both principal and accessory buildings.

#### B. Purpose

The purposes are to ensure:

1. That the use of property does not infringe on the rights or enjoyment of adjacent property owners,
2. That new development is compatible in aesthetic character with the existing patterns of development and that it is compact and pedestrian-scaled.
3. That there is adequate light and air for the health and safety of residents, business operators, and patrons.
4. That the environmental quality of the land and waterways are protected and that to the greatest extent practical impervious surfaces are minimized in all new construction.
5. That fire and rescue personnel and equipment will have sufficient access to the side and rear of structures, and that
6. The density and intensity of new development is in keeping with the planning and development of essential municipal facilities and services.
7. Within the Village Center district, developers and property owners have the flexibility needed to develop and/or redevelop properties in keeping with the purpose of the district.

#### C. Requirements

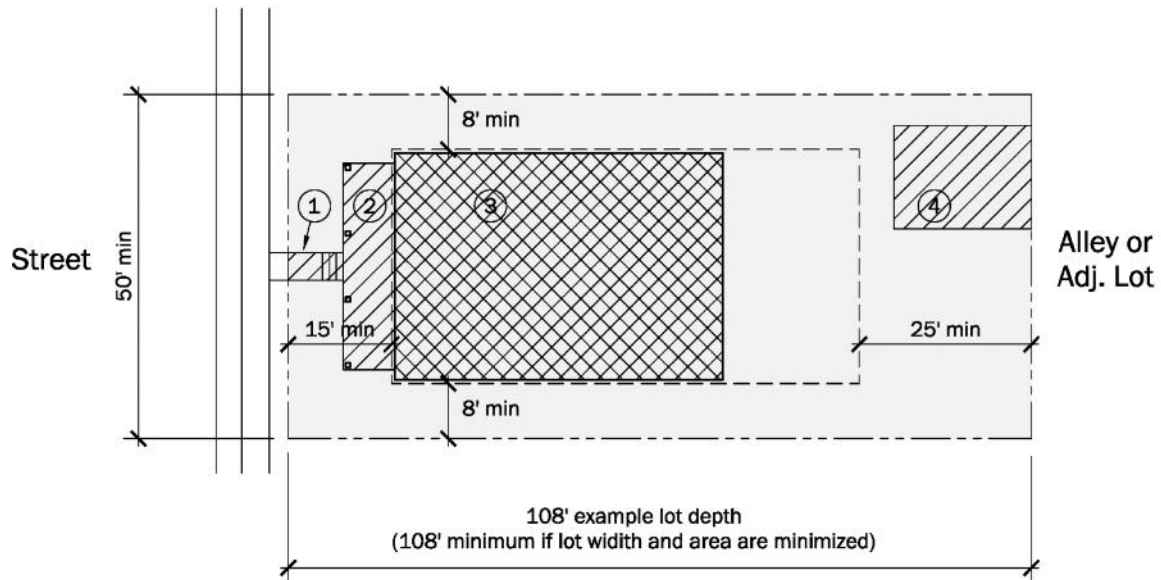
1. The lot dimensional, density, and bulk requirements set forth in Tables 2 and 3 shall apply to all new construction.

2. Impervious surfaces (surfaces that do not absorb rain, including buildings, streets, driveways, sidewalks, patios, parking areas and any other surfaces that are paved or are otherwise impervious to water) shall be minimized to the maximum extent possible. While the maximum permissible level of impervious coverage for each lot is provided in Table 3, within the Critical Area the Town shall require that impervious surface coverage be minimized to the extent possible as a condition of any development approval and to this end may require that pervious surfacing materials be substituted for impervious surfaces or that driveway and other proposed impervious surfaces be the smallest necessary to serve their intended function, or impose other comparable restrictions.

**D. Illustrative Examples**

Illustration 1- Example A shows the application of the key dimensional requirements which are set forth in Table 2 and 3.

## Illustration 1 - Example A



### Legend & Notes

- Lot Boundary
- .-.- Minimum Setback from Lot Boundary
- 5,400 sf minimum lot area
- 30% maximum Building Coverage
- 40% maximum Impervious coverage
- ① Sidewalk (Impervious)
- ② Front Porch (Impervious)
- ③ Main house structure (Impervious)
- ④ Paved parking area in rear yard (Impervious)

**Table 2: DIMENSIONAL AND DENSITY REQUIREMENTS**

Zoning District	Minimum Dimensional Requirements					Maximum Density/Intensity (gross)	
	Lot Area (sf)	Area Per Unit (sf)	Lot Width (ft)	Lot Depth (ft)	Street Frontage (ft)	Dwelling Units (per acre)	Floor Area Ratio <sup>1</sup>
<b>TND Lot Types</b>							
single-family detached	5,400	5,400	50	100	50	6	-
single-family attached	3,000	3,000	22	100	22	10	-
multi-family	1 acre	2,000	100	-	100	14	-
civic, other	5,400	-	50	100	50	-	0.4
<b>Village Center (V-1) Lot Types</b>							
single-family detached	5,000	5,000	50	90	50	7	-
single-family attached	2,000	2,000	18	90	18	12	-
multi-family	1 acre	2,000	100	-	100	14	-
commercial	5,000	-	50	90	50	-	0.65
civic, other	5,000	-	50	90	50	-	0.6
<b>Village Commercial (V-2) Lot Types</b>							
single-family attached	2,000	2,000	18	90	18	12	-
multi-family	1 acre	1,500	100	-	100	22	-
commercial	5,000	-	50	90	50	-	0.65
civic, other	5,000	-	50	90	30	-	0.6
<b>Marine Commercial (MC) Lot Types</b>							
commercial, other	-	-	-	-	-	-	0.55
<b>General Commercial (C) Lot Types</b>							
commercial	21,000	-	100	100	100	-	0.5
civic, other	21,000	-	100	100	100	-	0.35
<b>Resource Conservation (RC) Lot Types</b>							
single-family detached	1 acre	10 acres	-	-	30 ft	0.1	-
civic, other	2 acres	-	-	-	30 ft	-	-

<sup>1</sup> Floor Area Ratio (FAR) - The ratio derived by dividing the total floor area of a building by the gross site area.

**Table 3: YARD AND BULK REQUIREMENTS**

Zoning District	Minimum Yard Requirements			Maximum Bulk Standards		
	Front (ft)	Side (ft)	Rear (ft)	Height <sup>3</sup> (ft)	Building Coverage <sup>4</sup> (%)	Impervious Surface Coverage (%)
<b>TND Lot Types</b>						
single-family detached	15 ft <sup>2</sup>	8 ft	25 ft	28 ft	30%	40%
single-family attached <sup>1</sup>	15 ft	20 ft	20 ft	28 ft	43%	45%
multi-family	30 ft	25 ft	25 ft	35 ft	40%	50%
civic/other	15 ft	8 ft	25 ft	35 ft	33%	40%
<b>Village Center (V-1) Lot Types</b>						
single-family detached	10 ft	8 ft	25 ft	28 ft	40%	45%
single-family attached	15 ft	20 ft	20 ft	28 ft	48%	50%
multi-family	15 ft	25 ft	25 ft	35 ft	40%	50%
commercial	15 ft	8 ft	20 ft	35 ft	50%	60%
civic/other	15 ft	8 ft	20 ft	35 ft	50%	60%
<b>Village Commercial (V-2) Lot Types</b>						
single-family attached	15 ft	20 ft	20 ft	28 ft	48%	50%
multi-family	15 ft	25 ft	25 ft	35 ft	40%	50%
commercial	15 ft	8 ft	25 ft	35 ft	85%	85%
civic/other	15 ft	8 ft	20 ft	35 ft	60%	60%
<b>Marine Commercial (MC) Lot Types</b>						
commercial, civic, other	15 ft	20 ft	25 ft	35 ft	50%	60%
<b>General Commercial (C) Lot Types</b>						
commercial	30 ft	20 ft	20 ft	35 ft	50%	60%
civic/other	30 ft	20 ft	20 ft	35 ft	50%	60%
<b>Resource Conservation (RC) Lot Types</b>						
single-family detached	30 ft	25 ft	25 ft	35 ft	10%	10%
commercial/civic/other	30 ft	25 ft	50 ft	35 ft	10%	10%

<sup>1</sup> For attached units, the entire structure shall be considered a single building with respect to side yard requirements

<sup>2</sup> All recorded subdivisions of land greater than one-half acre in size shall provide a front yard setback on each lot created which shall be within the range of 10 to 20 feet. No setback on any lot shall be greater than 30 feet, except as may be allowed by §5.1.2 A.1

<sup>3</sup> For flat roofs on single-family structures, the maximum building height shall be 33 feet.

<sup>4</sup> Accessory buildings shall be included in the calculation of maximum building coverage.

## **§ 5.1.2 Exceptions to Lot and Bulk Requirements**

### **A. Exceptions by District**

1. In the TND and Village Center districts, the front setback shall not vary by more than five (5) percent of the average of the existing setbacks for buildings on the same side of the street within 300 feet of the proposed building, except as provided in paragraph 3 of this section.
2. In the Village Center and Village Commercial districts, where a side lot line of a commercial use coincides with a side lot line of another commercial use, the side lot line may be reduced to zero provided the following findings are established:
  - a. Access of emergency personnel on the site would be adequately provided, and
  - b. The Fire Chief submits a favorable recommendation in writing.
3. For properties in the Village Center district, the Planning Commission may, but is not required to, approve the redevelopment of properties, including through the teardown and rebuilding of any structure, with quantitatively the same lot dimension and building bulk parameters that existed on the site prior to redevelopment or with standards that are in greater conformance with the dimensional requirements of Tables 2 and 3, provided such structure existed prior to the adoption of this Ordinance. The following procedures shall govern the review:
  - a. The Planning Commission may approve a project under the terms of this provision only upon review of a Category 1 site plan and such approval shall not require a variance or administrative adjustment.
  - b. The Planning Commission may approve a project under the terms of this provision whether or not the property is a non-conforming use or structure provided the redevelopment project would not result in the expansion of a non-conforming use or structure.
  - c. The Planning Commission may establish conditions on its approval of any project approved under the terms of this provision to address any possible adverse effects of the site's adherence to any pre-existing dimension and bulk parameters.
  - d. The Planning Commission may condition its approval on there being greater conformance to one or more of the dimensional or bulk requirements of this Ordinance.
  - e. An applicant for such approval shall adhere to Historic District plan review procedures if the property is in the Historic District.

**B. Allowable Extensions into Yard Areas**

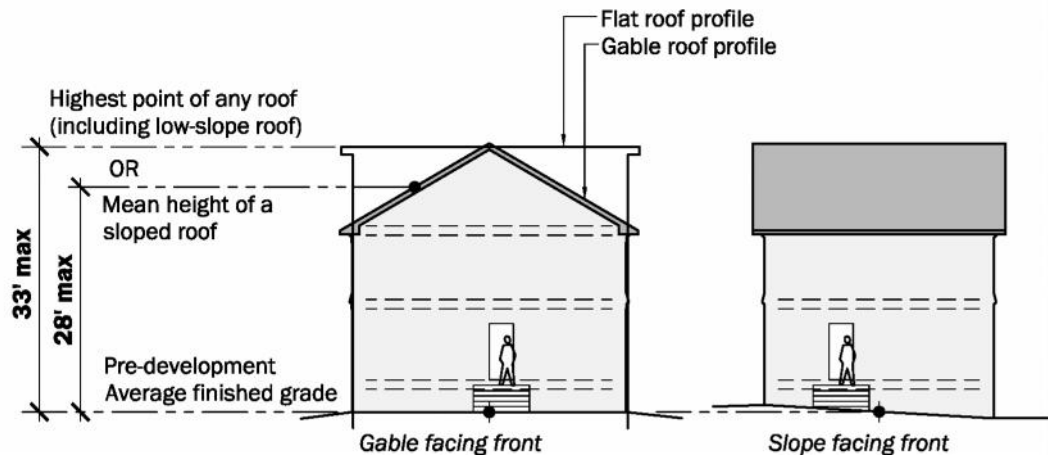
Extensions into Yard Area. The following features may extend into required minimum setback areas but only as qualified below:

- a. Cornice, canopies, awnings, eaves, or other similar features which are at least eight feet above grade, may extend no more than four feet into any required yard in any district.
- b. Chimneys may extend no more than two feet into any required side yard.
- c. Any uncovered and completely unenclosed patio, terrace, or deck, or stairs with a floor no higher than that of the first floor level of the building may extend six feet into any required yard, but not nearer to any lot line than a distance of four feet.
- d. In the TND district, a covered porch may extend six feet into the front yard.

**C. Height**

- 1. The height limits of this Ordinance shall not apply to steeples, spires, belfries and cupolas not for human occupancy, water towers, equipment for the operation of a building, chimneys, flag poles, radio towers, masts, aerials and other similar structures. Antennas are allowed in all districts but shall not be higher above the roof than the distance of the building to the nearest property line or prescribed boundary.
- 2. Building height shall be as defined in Article 9 of this Ordinance. Illustration 2 below shows the application of the height requirement in the TND zone for single-family detached buildings per Table 3.

## Illustration 2



### § 5.1.3 Accessory Building / Structure Requirements

#### A. Location of Accessory Buildings and Structure

The following provisions apply to the location of accessory buildings:

1. Accessory buildings shall not occupy any required front yard or side street yard.
2. Accessory buildings shall not be located closer than six feet from any side property line or five feet from any rear property line, except in the Village Center, where accessory buildings and structures may be as close as three feet from the side property line.

#### B. Height of Accessory Building or Structure

1. Where the high point of the roof of any accessory building exceeds 12 feet in height, the accessory building shall be set back from the rear lot line an additional two feet for every foot of height exceeding 12 feet.

2. In the TND and Village Center districts, the maximum height of an accessory building shall be 20 feet. In all other districts the maximum allowed height shall be the maximum height of the principal structure on the lot.

**C. Accessory Swimming Pools**

Accessory swimming pools open and unenclosed, may occupy a required rear yard only, provided that they are not located closer than six feet to a rear lot line.

1. A walk space at least three feet wide shall be provided between pool walls and protective fences or barrier walls.
2. Every swimming pool shall be protected by a safety fence or barrier approved by the Zoning Administrator as provided in §5.1.4 of this Ordinance.

**D. Building Permits Required**

Any accessory building or structure greater than 100 square feet in size shall require a permit before placement.

## **§ 5.1.4 Fences and Walls**

**A. Approval Required**

1. No fence, wall or other type of construction shall be erected without Zoning Administrator approval except that fences and walls contained within Category 1 site plans shall be reviewed and approved by the Planning Commission concurrent with the site plan review.
2. An application to erect a fence or wall shall be accompanied by a survey plot plan if it is available and a sketch at minimum showing the proposed location of any fence in relation to property boundaries and improvements, the material proposed to be used, which must be in accordance with this Ordinance.

**B. Fence Height Limitations**

Rear, front, and side yards. No Fence shall be more than six feet in height at the rear of homes or buildings situated in all residential zoned districts. No fence shall extend forward of the rear building line more than three feet beyond any existing building or proposed building. No other fence or portions of a fence shall be higher than forty-eight inches.

**C. Location Restrictions**

1. A fence may be located on the property line except in the front yard. Any fence erected in a front yard or a side yard bordering a public street shall be placed at least one foot back from the front or side property line or from the edge of a public walkway or street and/or property line except when the fences around two neighboring yards are aligned with each other, then the fence may be placed in line with those fences.
2. All fences or walls must be erected so as not to encroach upon any public rights-of-way or easements unless a waiver is granted by the Town Council of Chesapeake City with the stipulation that the fence be removed or relocated upon request by appropriate town officials.
3. All fences or walls must be erected within the property line, and none shall be erected so as to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.

**D. Materials and Composition**

1. No fence shall be erected in a front yard or along a public right-of-way in the TND, Village Center District, and Village Commercial District unless the fence is uniformly less than fifty percent (50%) solid.
2. The following fences and fencing materials are specifically prohibited in the Town, except within the Resource Conservation District: barbed wire, pointed fences less than three feet in height, canvas fences, cloth fences, electrically charged fences, poultry fences, turkey wire, wire fences, temporary fences such as snow fences, expandable fences and collapsible fences, except during construction of a building or site.
4. All chain link fences erected shall be erected with the closed loop at the top of the fence.
5. All entrances or gates which border a public right-of-way or are positioned along a property line shall open into the property.

**E. Action of Zoning Administrator**

1. Any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety is prohibited.
2. The Zoning Administrator shall order any fence, wall or similar structure, which may cause a nuisance, a fire hazard or a dangerous condition or an obstruction affecting the public safety, or is in disrepair to be repaired or removed.
3. Any person who shall refuse or neglect to comply with the written direction of the Zoning Administrator shall be guilty of a violation of this Ordinance and shall be subject to its penalties.
4. In reviewing an application for a fence, wall, or similar structure in the front or side yard visible from the public right-of-way, the Zoning Administrator may consider the impact of the proposal on the protection of the aesthetic character of the neighborhood.

## **§ 5.2 Creation of Lots**

### **§ 5.2.1 Standards for New Lots**

**A. Lot Sizes**

1. Lots shall be created to conform to the size and dimensions set forth in Table 2 of this Article. In no case may a lot be platted which has less area or width than required by this Ordinance in the zone where it is to be located.

**B. Lot Shape**

1. Excessive lot depth in relation to lot width should be avoided; with a proportion of 2.5 to 1 considered a desirable maximum. Pointed or irregular lot shapes shall be avoided.
2. Side lot lines should generally be at right angles to straight street centerlines and radial to curved street centerlines. However, this standard is not intended to prohibit the creation of lots at a reasonable angle to the street where the intent is to create a lot orientation to enhance solar-related energy techniques.
3. Corner lots shall be equal non-corner lots in lot width and depth plus shall have added area to comply with minimum front yard setback requirements on each frontage.

4. No subdivision plat shall create remnants of land that would have no apparent use or control.
5. Flag, pipe-stem, or panhandle lots shall not be permitted.
6. Double frontage and reverse frontage lots shall be strictly avoided except where required to avoid fronting lots onto arterial or other major non-access streets, or to separate residential areas from incompatible non-residential development, or to overcome some specific and unique site related disadvantage such as topography.

**C. Frontage and Access to Streets**

1. Except along streets existing prior to January 1, 2011, no residential lot shall be created which does not both front onto a public street and back onto an alley.
2. Minimum street frontage shall be as set forth Table 2 of this Article. Street frontage shall be measured at the established minimum setback for the zoning district where located.
3. Upon approval of Cecil County Emergency Services, a street address for each lot shall be as assigned by the Town in order to ensure a separate and distinct address for each lot created.
4. No residential lot shall derive vehicular access exclusively from a Collector street as provided in the Comprehensive Plan.
5. No lot, regardless of use, shall derive vehicular access directly from an Arterial road, as provided in the Comprehensive Plan, unless alternative access is strictly prevented by topographic and related physical conditions such as site distance requirements and environmental conditions.
6. Where adjoining lots front onto a Collector street or Arterial road, the Town may require that such lots be served by a combined drive in order to limit possible traffic hazard, reduce the number of driveways connections to the public right-of-way, protect aesthetic character, limit overall impervious surface coverage or otherwise implement the purposes of this Ordinance.
7. Driveways shall be arranged to avoid vehicles backing into traffic on Collector and Arterial roads.
8. Every lot shall abut an approved public street that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles. The reviewing authority whether it is the Planning Commission or Zoning Administrator, shall have the authority to approve or disapprove any point of ingress or egress to any lot, tract, parcel or development from any street or highway.

## Article 6

### Site and Building Design Standards

## § 6.1 General Environmental Standards for Sensitive Areas

This section establishes environmental standards for all subdivisions and development requiring site plan approval.

### § 6.1.1 Land Suitability

#### A. Unsuitable Land not for Development

No land shall be subdivided for development that is held unsuitable for its proposed use by the Planning Commission for reasons of flooding, being located within the 100-year floodplain, inadequate drainage, excessive slope, severe erosion potential, or any other natural features that may be harmful to the health, safety, and welfare of future residents, property owners or the community at large.

#### B. Proposed Improvements to Unsuitable Land

All proposed improvements necessary to make land suitable for development shall be in full compliance with any laws and ordinances regulating such improvements and with any conditions as may be required by the Planning Commission to reduce risks to health and safety. The ability to mitigate an environmental health concern through proposed improvements in no way guarantee that the Planning Commission will approve a project on land that is otherwise unsuitable for its proposed use.

#### C. Deed Restrictions Required

When a subdivider does not intend to develop the plat him or herself and the improvements are necessary to reduce hazards and/or to make land suitable for development, the Planning Commission shall require appropriate deed restrictions to be inserted on every deed and noted on every recorded plat and parcel.

## **§ 6.1.2 Perennial Stream No Disturbance Buffer**

### **A. Buffer Required**

A three hundred (300) foot vegetative buffer from all perennial streams shall be required for all development.

### **B. Expanded Buffer May be Required**

The perennial stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than fifteen percent (15%) that are contiguous with the perennial stream.

### **C. Modification of Buffer**

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided it be not less than one hundred (100) feet, if it establishes written finding of fact that:

1. The design, construction and use of the entire site with less than a 300-foot buffer will provide the same or greater protection of water quality as the 300-foot buffer, and the development proposal provides heightened measures to minimize the runoff of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 300 feet of the stream; or
2. It is the development of a planned public street that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. Other public or community facilities are required and evidence is provided that disturbance will be minimized in so far as possible.

## **§ 6.1.3 Intermittent Stream No Disturbance Buffer**

### **A. Buffer Required**

A 50-foot vegetative buffer from all intermittent streams shall be required for all development.

**B. Expanded Buffer May be Required**

The intermittent stream buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the stream.

**C. Modification**

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided the buffer is not less than 25 feet if it establishes written finding of fact that:

1. The development proposal provides heightened measures to minimize the runoff of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the stream; or
2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

**§ 6.1.4 Non-tidal Wetland Buffer**

**A. Buffer Required**

A 50-foot setback from all non-tidal wetlands shall be required for all development around the extent of the delineated non-tidal wetland except as permitted by the U.S. Army Corp of Engineers and the State of Maryland, Department of Natural Resources, Non-tidal Wetland Division.

**B. Expanded Buffer May be Required**

The wetland buffer shall be expanded to include contiguous 100-year floodplain and non-tidal wetlands, hydric soils, highly erodible soils, and soils on slopes greater than 15 percent that are contiguous with the wetland.

**C. Modification**

In the review of a site plan or subdivision plat, the Planning Commission may modify this buffer requirement provided the buffer is not less than 25 feet upon establishing written findings of fact that:

1. That the development proposal provides heightened measures to minimize the runoff of stormwater from the site and to minimize impervious surfaces and the removal of natural vegetation within 50 feet of the wetland; or
2. It is the development of a planned public street or other infrastructure that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible; or
3. It is the development of other necessary public or community facilities that has necessitated an incursion into the buffer and evidence is provided that disturbance will be minimized in so far as possible.

**§ 6.1.5 Steep Slopes**

**A. No Disturbance of Steep Slope**

No structure, impervious surface or other land disturbance shall occur on any slope with a grade of 15 percent or greater unless the Zoning Administrator determines that the structure, impervious surface or land disturbance is necessary for stabilization of the slope.

**B. Buffer**

A minimum 50-foot buffer shall be established between development and the crest of slopes in excess of 25 percent.

**§ 6.1.6 Habitats of Rare, Threatened and Endangered Species**

Development shall avoid areas of Habitat of Rare, Threatened and Endangered Species as defined by the Maryland Department of Natural Resources.

## **§ 6.1.7 Forest Conservation**

### **A. Forest Conservation Ordinance**

The forest conservation ordinance of Cecil County shall be complied with in all respects within the boundaries of the Town of Chesapeake City.

### **B. Landscaping and Tree Requirements in Subdivisions**

1. Existing trees shall be preserved whenever possible. The protection of trees six inches or more in diameter (measured at breast height) shall be given high priority in determining the location for open spaces, structures, underground utilities, walks, and paved areas. Areas in which trees are preserved shall remain at original level and shall remain undisturbed wherever possible.
2. Where extensive natural tree cover and vegetation does not exist, landscaping and the planting of native tree species shall be provided to establish a tree canopy, enhance the appearance of the development, aid erosion control and stormwater runoff management, provide protection from wind and sun, screen and shade streets and paved areas, promote energy conservation of buildings, and enhance the privacy of dwelling units.
3. If available, the Town's street tree planting guidelines shall be followed in all subdivisions.

## **§ 6.2 Landscaping and Screening**

### **§ 6.2.1 General Applicability**

- A. The provisions of this Section shall apply to all development where site plans are filed in accordance with the provisions of this Ordinance and to all public and private parking facilities. This Section establishes the minimum requirements for site landscaping and screening for projects requiring site plan review. More than the minimum requirements may be required to meet the purposes of this Ordinance.
- B. In the review of Category 2 Site Plans, the Zoning Administrator shall apply standards and conditions on the approval in relation to landscaping and screening in keeping with the purposes of §6.2.2 below.

## **§ 6.2.2 Purpose and Intent**

### **A. Intent**

This section is intended to set forth certain minimal requirements for the use of landscaping and planting in relation to site plan approvals.

### **B. Purposes**

1. To screen or buffer incompatible uses in order to minimize the harmful impact of noise, dust and other debris, artificial light intrusion, and other objectionable activities or impact conducted or created by adjoining or nearby uses; and
2. To reduce the harmful effect of heat and noise, and the glare of motor vehicle lights; and
3. To help preserve underground water reservoirs, to permit the return of precipitation to the ground water strata and otherwise act as a natural drainage system to ameliorate stormwater drainage problems, prevent soil erosion and help meet the requirements of state stormwater regulations; and
4. To provide shade and to prevent the blighting appearance of unkempt parking lots; and
5. To promote compatibility among new and older development, accentuate traditional qualities and patterns of development, and expand the tree canopy in the Town.

## **§ 6.2.3 Landscaping Requirements**

### **A. Landscape Plan**

A landscaping plan shall be submitted for approval by the Planning Commission as part of every Category 1 site plan.

### **B. Content of Landscape Plan**

A landscaping plan shall include dimensions and distances and clearly delineate all buildings and existing and proposed parking spaces or other vehicle areas, access aisles, driveways, and the location, size, species, and description of all landscaping materials to be used.

**C. Minimum Screening Requirements**

1. All developments shall be fully screened on each side that adjoins a residential use up to the minimum height of four feet. Required screening shall consist of either a masonry wall or wooden fence not greater than six feet in height, an evergreen hedge, or a fully planted landscape area of at least ten feet in width.
2. All service structures, which included dumpsters, propane tanks, air conditioning units, and related equipment or elements providing service to a building or site, shall be fully screened with landscaping and/or a fence or wall.

**D. Perimeter Parking Lot Landscaping**

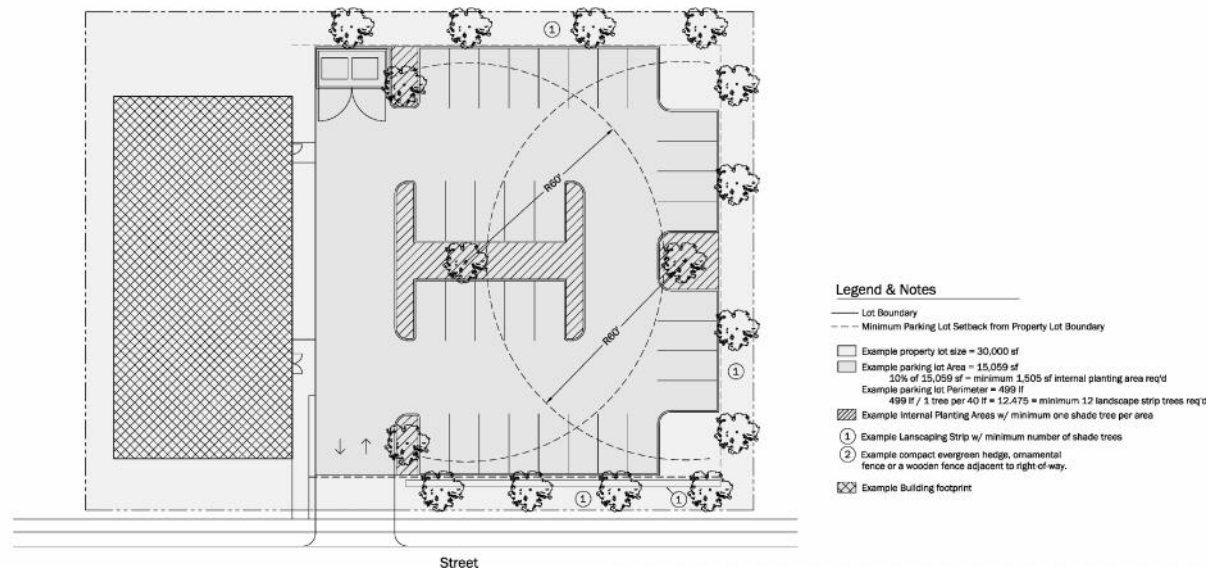
All off-street parking lots, whether or not located on the same lot as the use to which it is accessory, containing ten or more parking spaces shall meet the following perimeter landscaping requirements.

1. A landscaping strip with a minimum width of ten feet shall be located between the parking lot and the adjoining lot lines.
2. A minimum of one shade tree for every 40 feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or with low shrubs shall be used as the primary landscape materials.
3. On the landscaping strip adjacent to a right-of-way, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four feet or greater than six feet in height is required.

**E. Internal Landscaping of Parking Lot**

Any parking lot of 25 or more spaces shall be internally landscaped with shade trees. Shade trees shall be planted in planting areas. Planting areas which shall comprise at least ten percent of the internal area of the parking lot and shade trees shall be installed such that no parking space is located more than 60 feet from a parking lot shade tree. Planting areas should be wide enough to allow for the mature growth of the tree chosen.

Illustration 3



## F. Landscaping For Stormwater Management

1. Landscaping in relation to parking lots may be used for stormwater management provided the requirements of this section are met.
2. Bioretention swales are allowed in perimeter and internal parking lot landscaping areas and planting areas.

## G. Building Wall Yard Planting

A planting area shall be established along any building wall facing an adjacent off-street parking lot or right-of-way. Shade trees, ornamental trees, and shrubs shall be planted in this planting area to aesthetically enhance the appearance of buildings and provide shade according to the following minimum standard: one shade tree for every 50 feet of wall yard length and one ornamental tree for every 30 feet of wall yard length.

## H. Required Planting Material

In meeting the requirements of this Ordinance, only those plants listed on the Town's Recommended Plant and Landscape Guidelines which shall be maintained by the Zoning Administrator, shall be used.

## **I. Maintenance**

1. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. Fences and walls shall be maintained in good repair.
2. The owner shall be responsible for the maintenance, repair and replacement of all landscaping and screening materials as may be required by the provisions of this Section.
3. Failure to maintain required landscaping, or to adhere to an approved landscaping plan, shall constitute a zoning violation subject to the remedies set forth in this Ordinance.

## **§ 6.2.4 Waiver or Modification**

Provided that the Planning Commission establishes findings of fact that a modification will not have any deleterious effect on existing or planned development of adjacent properties, it may approve a waiver or modification of the requirements of this Section. Such waiver or modification may be approved in the following instances: for an interim use of a duration of less than two years; or where deemed appropriate due to the location, size, configuration or topographic condition of the lot, provided the Planning Commission finds that the purposes of this section will be met.

## **§ 6.3                      Parking and Loading**

### **§ 6.3.1            Intent and Purposes**

#### **A.        Intent**

This section establishes requirements for motor vehicle and bicycle parking, including the minimum number of spaces required by land use.

#### **B.        Purposes**

1.        To ensure that adequate parking spaces are provided in relation to development sites at time of development so that parking does not overflow onto adjoining streets which may not be designed to handle it.
2.        To ensure that accommodation is made for bicycle parking.

### **§ 6.3.2            Off-Street Parking Required**

#### **A.        Schedule of Required Parking**

1.        In all districts, space for parking vehicles shall be provided in accordance with the Schedule of Minimum Off-Street Parking Requirements by Land Use set forth in Table 4 of this Ordinance.
2.        Subject to approval by Planning Commission, off-street parking requirements may be varied or modified within the Historic District and for designated historic sites without adherence to §6.3.3 of this Ordinance.
3.        In the review and approval of site plans and subdivision plats, in an effort to minimize the amount of impervious surface coverage and implement the purposes of this Ordinance, the Planning Commission, or the Zoning Administrator for those projects that fall within his/her review authority, may require that all or some portion of parking surface area and on site driveway surfaces areas be constructed of a pervious surface approved by the Town. Pervious surface parking and driveway areas shall be required within the Critical Area.

## B. Minimum Parking Space Area

1. An off-street parking space shall comprise not less than one hundred eighty (180) square feet per parking stall plus necessary maneuvering space.
2. Space for maneuvering incidental to parking or unparking shall not encroach upon any public right-of-way.

**TABLE 4 (Part 1 of 2): SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS BY LAND USE**

Use	Minimum Required Parking Spaces
<b>Residential</b>	
Single family residential - detached	2/dwelling unit
Single family residential - attached	2/dwelling unit
Two-family, duplex	2/dwelling unit
Accessory Apartment	1/dwelling unit
Multi-family Dwelling	1.5/dwelling unit
Boarders in Residence	1 per boarder plus residential requirement
Group Home, Halfway House	1 per staff plus 1 per 2 residents
Boarding House	1 per unit plus residential requirement
Intermediate Care Institutions	
Day Care Home	1 per staff plus residential requirement
Day Care Center, Day Nursery (30 or fewer people)	3 per classroom
Homeless Shelter	*
Bed and Breakfast, Country Inn	1 per unit plus residential requirement
Home Occupations	1 per employed non-resident plus residential requirement
Home Occupations, such as physician, dentist	2 per doctor plus residential requirement
<b>Institutional</b>	
Schools, elementary, secondary, trade, and vocational, colleges	*
Studios for instruction in dance, art, music, similar	1 per 5 students
Churches and other buildings for religious assembly	1 per 4 seats in main assembly hall
Monasteries, convents	1 per 6 seats in main assembly hall
Lodges, clubs, fraternal organizations	*
Nursery Schools, Day Care Centers (with more than 30 people)	3 per classroom
Libraries, other public administrative and cultural buildings	*
Cemeteries	*
Hospitals, medical clinics and similar centers in excess of 10,000 sf	*
Nursing care institutions, child care institutions	1 per staff plus 1 per 5 residents
Public or non-profit park and/or recreational area	**

**TABLE 4 (Part 2 of 2): SCHEDULE OF MINIMUM OFF-STREET PARKING REQUIREMENTS BY LAND USE**

Use	Minimum Required Parking Spaces
<b>Commercial</b>	
Artists, photographer galleries, studios	1 per 500 sf GEA
Retail Shops, including service/repair such as clock, jewelry, repair	1 per 350 sf GEA
Convenience, grocery, department, variety, hardware, dry goods stores	1 per 300 sf GEA
Hotels, motels	1 per unit plus 1 per staff
Personal service shops, barber, salons, shoe repair, dry cleaning	1 per 250 sf GEA
Personal Services such as Health and Fitness Center, Spa	1 per 300 sf GEA
Computer repair shops, small appliance repair, similar	1 per 400 sf GEA
Banks and Financial Institutions	1 per 300 sf GEA
Places of indoor amusement, movie cinema, theater	1 per 4 seats
Professional office	2 per professional
Medical or dental office, clinic or center under 10,000 sf	1 per 250 sf GEA
Business offices, including finance, insurance, real estate	1 per 400 sf GEA
Business services, plumbing shops, contractor shops	1/staff
Building materials, lumber yards, boat and heavy equipment sales, etc.	*
Restaurants, standard	1 per 300 sf GEA
Restaurants, fast food, drive-in, thru	1 per 250 sf GEA
Pubs, taverns, nightclubs, dance halls	1 per 250 sf GEA
Hotels, motels	1 per unit plus 1 per staff
Resorts	**
Shopping Center	**
Small-scale manufacturing and assembly uses, warehousing	1/staff
Animal hospital, veterinarian clinic	1.5 per exam room
Kennel/Cattery	1 per staff
Funeral Parlor	1 per 4 seats in chapel
Marina	0.5 per boat slip
Nursery for plants, greenhouses	*
Private outdoor amusement/recreational activities	**
Filling stations, service stations, automotive repair, full service garage	1 per pump plus 1 per service bay plus 1 per staff
Motor vehicle sales, rental, service	1 per 300 sf GEA
Automotive body shop	1 per service bay plus 1 per staff
<b>Miscellaneous</b>	
Public utility building / facility	*
Temporary Buildings Incidental to Construction	**
Festivals, events of public interest, special events, occasional, outdoor	**

\* Minimum parking shall be 1 space per staff plus spaces in number as determined by Town Approving Authority to serve the visiting/resident public.

\*\* Minimum parking shall be established by Town Approving Authority upon review and approval of a site plan and/or zoning permit.

## § 6.3.3 Modification of Parking Requirement

### A. Due to Site Conditions

Should the configuration of the lot, the placement of existing conforming structures, or a change of use to a conforming but more intensive use, preclude strict adherence §6.3.2, the Planning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, may modify the parking requirements provided there are findings of facts that:

1. Adequate public off-street parking is available within reasonable walking distance, or;
2. On-street parking is available and adequate and that the parking required by the contemplated use will not materially impede the flow of traffic or preempt existing residential parking; or
3. A written agreement is established and made part of any site plan approval, allowing parking required by the use of an adequate off-street parking lot within a reasonable walking distance.

**B. Due to Joint Use of Parking**

Where joint use of parking by one or more uses is possible, the Planning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, may modify the parking requirements provided there are findings of facts that:

1. Joint use of parking spaces will not reduce the availability of parking spaces below the minimum required number of spaces required by each use during its peak demand.
2. A written agreement is established and made part of any site plan approval providing for the joint use of spaces.

**C. Reduction Due to Lack of Demand**

Should the applicant demonstrate and the Planning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, find that a sizeable share of site-related traffic would access the site by bicycle and/or walking, then minimum parking requirements may be reduced.

**D. Parking in Front Yards in TND Zone**

The use of the required front yard on single-family lots in the TND zone for the parking or storage of motorized and non-motorized vehicles of any kind is prohibited, except where the creation of the lot predates the adoption of this zoning ordinance.

## **§ 6.3.4 Minimum Bicycle Parking Requirements by Land Use**

### **A. Schedule of Required Parking**

Bicycle parking shall be provided in accordance with the following schedule. In all districts, either space for parking and/or storage of bicycles shall be provided or the applicant shall demonstrate that adequate bicycle parking is provided for.

bed and breakfast, hotels, motels	2, or 1 per 25 employees
retail sales, service operations	2, or 1 per 5,000 s.f. gfa
office buildings	2, or 1 per 5,000 s.f. gfa
museums, libraries, similar	4, or 1 per 3,000 s.f. gfa
churches, similar	1 per 50 members
community centers	1 per 250 s.f. gfa
schools	
a) elementary	1 per 10 students
b) middle and high	1 per 6 students
indoor amusement	4, or 1 per 50 seats
restaurants	4, or 1 per 50 seats
other commercial	2, or 1 per 50 employees

### **B. Waiver or Modification**

The Planning Commission may waive or modify the bike parking requirement in the Village Commercial and Village Center District where adequate publicly accessible bike parking is already provided within a reasonable walking distance.

### **C. Design of Bicycle Parking Spaces**

1. Each bicycle parking space shall be sufficient to accommodate a bicycle at least six (6) feet in length and two feet wide, and shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using a chain and padlock, locker, or other storage facilities which are convenient for storage and are reasonably secure from theft and vandalism. The separation of the bicycle parking spaces and the amount of corridor space shall be adequate for convenient access to every space when the parking facility is full.
2. When automobile parking spaces are provided in a structure, all required bicycle spaces shall be located inside that structure or shall be located in other areas protected from the weather. Bicycle parking spaces in parking structures shall be clearly marked as such and

shall be separated from auto parking by some form of barrier to minimize the possibility of a parked bicycle being hit by a car.

3. Bicycle parking spaces shall be located near the entrance of use being served and within view of pedestrian traffic if possible, and shall be sufficiently secure to reasonably reduce the likelihood of bicycle theft.
4. Bicycle parking facilities shall not impede pedestrian or vehicular circulation
5. Racks must not be placed close enough to a wall or other obstruction so as to make use difficult. There must be sufficient space (at least 24 inches) beside each parked bike that allows access. This access may be shared by adjacent bicycles. An aisle or other space shall be provided to bicycles to enter and leave the facility. This aisle shall have a width of at least six feet to the front or rear of a bike parked in the facility.
6. Paving is not required, but the outside ground surface shall be finished or planted in a way that avoids mud and dust. Bike parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by cars, such as curbs, wheel stops, poles or other similar features.

### **§ 6.3.5 Off-Street Loading Spaces Required**

#### **A. Loading Area Required**

In any zone in connection with every building or part thereof, having a gross floor area of 4,000 square feet or more, which is to be occupied by small-scale manufacturing or assembly, goods display or sales, mortuary, or other uses similarly requiring the receipt and distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building or use, at least one off-street loading space plus one additional such loading space for each 10,000 square feet of gross floor area or major fraction thereof.

#### **B. Dimension of Loading Area**

Each loading space shall be not less than ten feet in width, 45 feet in length, and 14 feet in height.

**C. Location of Loading Area**

Such space may occupy all or any part of any required yard or court, except a front yard. No such space shall be located closer than 50 feet to any lot located in a TND District, unless wholly within a completely enclosed building or unless enclosed on all sides by a wall or uniformly painted board fence, not less than six feet in height.

**§ 6.3.6 Exterior Lighting**

**A. Lighting Plan**

1. An exterior Lighting Plan shall be submitted as part of every Category 1 site plan and major subdivision plat for approval by the Planning Commission.
2. Where a landscaping plan is required, the Lighting Plan shall be incorporated into or overlaid on the required landscape plan and include locations, dimensions, and distances and illumination areas associated with all light fixtures.
3. Light fixtures shall conform to the Town's standards and design specifications.
4. The Lighting Plan shall provide that the illumination area generated from proposed lighting fixtures located on the subject site of the Lighting Plan will not overlap adjoining properties or rights-of-way.

## § 6.4 General Building Design Standards

### § 6.4.1 Purpose and Applicability

#### A. Purpose

This section is intended to establish the general requirements for the appearance of buildings which are subject to site plan review and approval and through the application of these standards promote and protect a cohesive architectural character within the town.

#### B. Applicability

These provisions shall apply to all developments in the Town where site plan review is required in accordance with the provisions of Article 2 and shall be enforced through the site plan approval process.

#### C. Required Submittals

1. All Category 1 site plans and all site plans in the Historic District shall include proposed street front elevations prepared by a licensed architect for all buildings.
2. The Zoning Administrator may require that Category 2 site plan may submittals contain street front building elevations prepared by a licensed architect.

### § 6.4.2 Key Terms: Proportion/Rhythm/Scale

#### A. Terms

1. Proportion refers to the relationship between width and height of building facades.
2. Rhythm refers to the repetition and space of opening (windows and doors) on individual buildings as compared with adjacent structures. Rhythm also refers to the space of repetitive building masses along a street.
3. Scale: refers to the size (height/width) relationship between adjacent structures. Human scale refers to the comfortable size relationship between buildings and people.

## **B. Standards**

Illustration 4 shows the appropriate and inappropriate application of the basic design standards set for the below.

1. The proportional relationship of individual facades shall emphasize the vertical rather than the horizontal.
2. Large disparities between the height, width, and length of a building shall be avoided.
3. Large blank walls shall be avoided. Buildings shall be designed to support a human-scale environment. One of the windows on each floor may be substituted with another architectural element such as a chimney, door, garage, deck, or other element that creates visual interest and eliminates blank walls.
4. Buildings and accessory structures shall be compatible with neighboring buildings and structures in terms of height, proportion, rhythm, and scale.
5. All of the design elements of a building shall maintain the same architectural style in terms of proportion, rhythm, and scale as the overall style of the building.
6. Buildings shall be designed to promote a pattern of closely spaced buildings with multiple entrances.
7. Rooftop and exposed mechanical electrical equipment shall be screened from view. Screening shall be architecturally integrated with buildings.
8. Building Orientation: buildings and their main entrances shall face the front yard on the lot.
9. In new construction, the roof of buildings should conform to the predominant orientation of roofs on the street.
10. Neighborhood context should dictate the choice of materials for exterior of buildings. Standards on exterior building materials are contained in the Town's Architectural Standards.

### **§ 6.4.3 Modification**

The Planning Commission, in relation to a Category 1 Site Plan, or the Zoning Administrator in relation to a Category 2 site plan, may modify the requirements of this Section provided there are findings of facts that the modification will not have any deleterious effect on existing or planned development of adjacent properties, and where deemed appropriate due to the location, size, configuration or topographic condition of the lot, provided the Planning Commission finds that the purposes of this Section will be met.

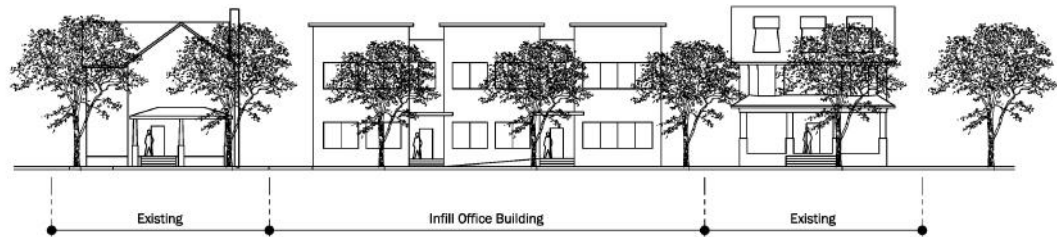
## Illustration 4

### Office Building Notes:

New Building and Street Trees reinforce street rhythm

Facade and Roof broken down into smaller units

Multiple entries



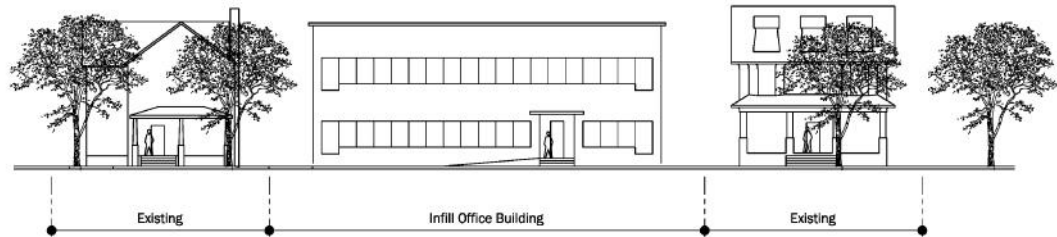
Appropriate

### Office Building Notes:

Contrasting Proportion, Rhythm and Scale of Building and lack of Street Trees disrupt street rhythm

Facade and Roof undifferentiated

Single entries in a relatively long facade



Inappropriate

## **§ 6.5 Signs**

### **§ 6.5.1 Purpose and Applicability**

#### **A. Purpose and Applicability**

The regulations established by this Section are intended to appropriately limit the placement, type, size, and number of signs allowed, and to require the proper maintenance of signs. The purposes of these limitations and requirements are to:

1. Ensure that signs safely attract and direct persons to various destinations;
2. Protect public and private property values and investment;
3. Reduce hazards to motorists and pedestrians which result from excessive, confusing, and distracting signs; and
4. Preserve and enhance the aesthetic and historic quality of the community.

#### **B. Applicability**

1. Any sign erected, placed, attached, altered, reconstructed, or modified shall conform to this Section.
2. Existing signs shall not be altered or moved unless in compliance with this Section.

### **§ 6.5.2 Administration**

#### **A. Sign Permits and Sign Programs**

1. No sign shall be installed, constructed, or altered unless a Sign Permit and, or where applicable, a Sign Program, approval is first obtained in compliance with this Section, or the sign is allowed without Sign Permit approval as provided in §6.5.4.
2. After approval of a Sign Permit and/or Sign Program, each sign installed and maintained on the subject site shall comply with the Permit and Program.

**B. Sign Permit Application**

An application for a Sign Permit shall be prepared and filed with the Zoning Administrator.

**C. Application Contents**

The application shall include required application fees, architectural elevations and plans of all proposed signs drawn to scale, with all dimensions noted. At the discretion of the Zoning Administrator, it shall include illustrations of all proposed colors and materials or samples of the proposed colors and materials. The plans submitted shall also show the location of each sign on buildings and/or the site.

**D. Sign Permit Review Authority**

The Zoning Administrator shall review and approve or deny all Sign Permit applications for signs located outside of the Historic District. Within the Historic District, the Historic District Commission shall review applications for sign permits and adopt and file with the Planning Commission certificates of approval or rejection. The Planning Commission shall consider the Historic District Commission certificate in its review and approval or denial of a permit. The review authority may require conditions of approval as are reasonably necessary to achieve the purposes of this Section.

**E. Sign Programs**

1. A Sign Program shall be required for any multiple occupancy commercial, professional, industrial, residential, or institutional sites; or separately identifiable building group, such as a medical complex or shopping center; or an individual site of at least one acre in size or with a proposed development exceeding 10,000 square feet of total building space.
2. The Purpose of the sign program shall be to establish signing for all tenants and users of a complex, center or development site. An approved Sign Program shall prescribe the standards for all signs within the area coverage by the Program including size, number and types of signing permitted.
3. A Sign Program shall be approved by the Planning Commission. Within the Historic District, prior approval of the Historic District Commission shall be required.
4. A Sign Program shall comply with all provisions of this Section and is not intended to provide special or additional signing.

**F. Permit and Program Findings for Approval**

The approval of a Sign Permit or Sign Program shall require that the review authority first make all the following findings:

1. The proposed sign(s) do not exceed the standards of this Section, and as applicable, are of the minimum size and height necessary to enable motorists and pedestrians to readily identify the facility or site from a sufficient distance to safely and conveniently access the facility or site;
2. The proposed signs are in substantial conformance with the design criteria as may be maintained by the Town.

**G. Approval Period and Expiration**

A Sign Permit or Program approval shall expire one year from its date of issuance, unless the sign or signs have been installed within the period or a later expiration date is stated in writing at the time of approval.

**H. Sign Design Guidelines**

The Zoning Administrator may maintain guidelines for applicants for Sign Permits and Sign Programs regarding the placement, appearance, design, and construction materials and may use such guidelines to assist applicants in complying with the purpose and provisions of this Section.

### **§ 6.5.3 Prohibited Signs and Signing**

**A. In Relation to Location**

1. No signs shall be attached to utility poles, traffic signal poles, traffic control posts/signs, rocks, or trees visible from the public right-of-way whether on public or private property.
2. Except for official public way-finding signs and official directional, safety or traffic signs, no sign whether temporary or permanent shall be placed within any public rights-of-way within the Town.
3. No sign shall be located which will interfere with traffic visibility along the right-of-way of any street or along any private driveway existing or entering a site or on any slope or drainage easement of a street.
4. No signs shall be located on or above any part of a roof structure.

5. No sign shall be located above the first floor on a building except in the Village Commercial, General Commercial, and Marine Commercial districts upon approval of the Zoning Administrator or the Planning Commission. Applications for signs located above the first floor which are located in the Historic District shall be reviewed by the Planning Commission only after first obtaining a certificate of approval from the Historic District Commission.
6. No sign may be painted directly on any wall or roof of a building or on a fence visible from the public right-of-way.

**B. In Relation to Sign Character**

1. No sign shall project any intermittent, light emitting diode, or flashing illumination except for official public road or street signs intended to promote traffic safety.
2. Pennants, streamers, moving, flashing, windblown and all other fluttering, spinning, or similar type signs which includes strings of light bulbs, balloons or other inflated objects are prohibited.
3. No flashing or rotating signs shall be permitted.
4. Except for official traffic signs, no sign shall be displayed, visible from the public right-of-way, which uses the words “stop” or “danger” or that implies a need for or requirement of stopping or the existence of danger.
5. Signs that are obscene, illegal, hazardous to traffic, imitative of official government signs: (i.e., Stop, Danger, Caution, etc.) or obstructive to public visibility, so as to create a hazard to the public are prohibited.
6. Signs, attached to a parked motor vehicle, exceeding 12 square feet in area or the maximum allowable height for freestanding signs in the zoning district shall be prohibited. Signs attached to a motor vehicle which exceed four square feet but are less than 12 square feet are allowed only under the following conditions:
  - a. The vehicle is a registered, tagged, and operable vehicle and is parked in an approved parking space associated with the physical address of the sign applicant
  - b. The area of the sign attached to a motor vehicle shall count against the allowable sign area and/or total number of signs for the site on which the vehicle is legally parked.
7. Billboard signs are prohibited.

**C. In Relation to Safety, Condition and Neglect**

1. No sign shall be permitted which becomes unsafe or endangers the safety of a building, premise, or person. The Zoning Administrator shall order such signs to be made safe, to be repaired, or to be removed and such order shall be complied with within seven days of the receipt of such order, unless the condition is such that a shorter compliance period is required for public safety considerations.
2. No sign shall be permitted to remain which through damage, disrepair or lack of maintenance has become impaired in its functionality or blighted in its appearance. The Zoning Administrator shall order such sign to be repaired, replaced, or removed and such order shall be complied with within 45-days of the receipt of such order.
3. Failure to comply with the Zoning Administrator's order provided for in paragraphs 1 and 2 above shall result in the loss of any legal non-conforming status which may exist for the sign and require the sign to be removed and/or to come into compliance with this Code.
4. When a sign structure does not include a sign for a period of 90 consecutive days, such sign structure shall be deemed a violation and shall be removed.

**§ 6.5.4 Signs Permitted Without Permit**

**A. No Permit Required**

The following signs are permitted without obtaining a Sign Permit or Sign Program approval subject to conditions set forth below:

1. Official traffic and parking signs provided they are erected by a governmental agency.
2. Temporary signs provided the following conditions are adhered to:
  - a. The sign is no larger than 20 square feet in area and 8 feet in height, except that on lots in residential use in the TND district, no temporary sign shall exceed 4 square feet or 5 feet in height.
  - b. A zoning lot shall not display any temporary sign for more than 60 days in a year.
  - c. In the TND district, no more than two temporary signs shall be permitted at the same time on a given property except on properties displaying at least one legal non-temporary sign. In such a case, the property shall be limited to only one temporary sign at a time.
  - d. In residential districts, temporary signs shall not be illuminated.

4. Within the Commercial, Marine Commercial, Village Commercial, and Village Center districts, one placard, easel-type, sandwich-board or A-frame type sign per street frontage provided the following conditions are met:
  - a. The sign shall not to exceed six square feet if one-sided (12 square feet if double-sided), or 4.5 feet in total height and two feet in width.
  - b. The sign shall not impede pedestrian traffic or motor vehicle visibility, shall be removed before nightfall, and if posted along a road with speed limits greater than 35 miles per hour, it shall be placed at least 60 feet from the street right-of-way.
  - c. Sandwich-board signs to be located within the Historic District to be placed on a public sidewalk shall require the issuance of a Sign Permit.
5. In Commercial and Marine Commercial districts, one sign associated with the opening of a development provided:
  - a. It is no greater than 100 square feet in size and no greater than 8 feet in height.
  - b. It is removed within 6 months of its installation. Reinstatement of the sign for up an additional 6-month period following the initial 6-month period shall require a Sign Permit. Only two extensions shall be allowed.
6. In the TND, Village Center, and Village Commercial, and RC districts, one sign associated with the opening of a development provided:
  - a. It is no greater than 32 square feet in size and no greater than 8 feet in height.
  - b. It is removed upon the dedication of associated public streets and/or utilities or within one year of its installation. Reinstatement of the sign for up to one one-year period following the expiration shall require a Sign Permit.
7. One portable sign that is in no way permanently affixed or installed in or to the ground or any structure provided the following conditions are adhered to:
  - a. It is no greater than four square feet in area and four feet in height.
  - b. It is located no closer than eight feet from any adjoining lot and ten feet from a public right-of-way.
  - c. It is not illuminated.
  - d. In zoning districts where total allowable sign area is limited by this Section, the area of this sign shall be included when calculating the maximum allowable sign area.
  - e. In zoning district where the total number of signs is limited by this Section, this sign shall be included when calculating the maximum number of signs.

8. Signs accessory to parking lot uses provided the following conditions are adhered to:
  - a. Signs designating entrances and exits shall be limited to one sign per entrance and one per exit and neither sign shall exceed two square feet in area.
  - b. One additional sign limited to a maximum area of nine square feet is permitted which may be used to set forth conditions of use or identity the ownership of the parking area.
  - e. No such sign shall exceed seven six in height.
9. Commemorative plaques. Signs commemorating an historical building, its name register and/or erection date, when cut into or affixed to a permanent surface and not exceeding four square feet per building.
10. Interior signs. Signs located in excess of five feet inside and away from exterior windows, walls or doors of any building, mall, court, stadium or enclosed lobby, when such signing is intended for interior viewing.
11. Street number, address, and/or name. Two such signs for each building not exceeding one square foot each in the TND district and three square feet each in all other zoning districts are allowed without a Sign Permit.
12. On-site directional signs and notices. Signs showing the location of public facilities within a site such as public telephones, restrooms, and underground utilities are allowed without a Sign Permit.
13. Official on-site legal notice signs required by public hearing notification, zoning or other applications for Town approval as may be required by Town Code.
14. Window displays and signs. Signs erected or suspended in the interior of a structure to be viewed from the outside provided the following conditions are adhered to:
  - a. No more than 50 percent of the window area is covered in signing.
  - b. The area of window signing shall be included in the count of maximum allowable sign area and sign number for the site.
  - c. No such sign shall be an internally lighted sign.

**B. Non-Permit Signs Not Exempt from Regulations**

While the above listed signs are permitted without a Sign Permit, each must still be in compliance with the terms of this Ordinance. Signs installed with or without a permit, in conflict with the terms of this Ordinance are in violation and or subject to the penalties here.

## **§ 6.5.5      General Sign Standards**

### **A.      Standards are Maximum Allowable**

The dimension requirements provided in this Section represent the maximum size or area or distance allowed. Nothing in this is Section shall be deemed to imply that these regulations confer a right to the maximum.

### **B.      Computations of Area and Height**

#### **1.      Area**

- a.      The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets the requirements of this Ordinance and is clearly incidental to the display itself.
- b.      The sign area for a sign with more than one face shall be computed by adding together the area of all sign faces.

#### **2.      Height**

The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of: (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoning lot, whichever is lower.

#### **3.      Sight Visibility**

- a.      No sign shall obstruct a clear view to and from traffic along any street right-of-way, entrance or exit.

- b. A sight visibility triangle shall be kept free of obstructions to vision between the heights of two and one-half feet and twelve feet above the street.

**C. Illumination/ Lighting of Sign**

Except within the General Commercial (C) and Marine Commercial (MC) Districts, no internally lighted signs shall be permitted within Town. Where illumination of a sign is permitted, it shall be permitted only by indirect means external to the sign face.

**§ 6.5.6 Sign Standards Specific to the TND District**

Signs permitted in the TND district shall be limited by the following:

**A. For Public, Open Space, Institutional uses, Public Assembly, and Multiple Family Uses**

1. One freestanding sign is permitted, per road frontage meeting the following standards.
  - a. Maximum sign area is 32 square feet per sign face.
  - b. Maximum sign height is six feet.
  - c. Maximum distance from any other zoning lot is eight feet
  - d. One Wall Mounted Sign is permitted with maximum letter height of 30 inches.
2. No sign shall project into or over a public right-of-way.

**B. Subdivision or Community Entrance Signs**

1. One sign not exceeding 12 square feet may be located at each street entrance.
2. The maximum sign height allowed for Subdivision or Community Entrance is six feet.

**C. Home Occupations, Home Day Care, Bed and Breakfast Uses**

1. One freestanding sign per lot is permitted.
2. Maximum sign area shall be four square feet.

3. Maximum freestanding sign height shall be four feet.
4. Maximum distance from a property line lot shall be ten feet.
5. One wall-mounted plaque or nameplate sign is permitted provided it does not exceed two square feet in size and is made to be compatible in appearance with the building.

## **§ 6.5.7 Sign Standards Specific to All Districts, Except TND**

### **A. Freestanding Sign**

1. One freestanding sign is permitted per site. An approved Sign Program may provide for an additional freestanding sign when a lot exceeds five acres in size or has two public street frontages.
2. Freestanding signs shall not be located within parking lots. The area of freestanding signs shall not exceed 30 square feet. The base of the freestanding sign shall be solid and designed as an architecturally integrated element of the sign.
3. The base of all freestanding signs shall be set back a minimum of ten feet from any property line. No part of a freestanding sign shall be located within or overhang into a public or private right-of-way, sidewalk, or adjoining property.

### **B. Attached to Building**

Signs attached to a building shall not project more than 38 inches from the face of the building and shall have a minimum clearance of eight feet above the ground/sidewalk.

### **C. Window Signs**

Window displays and signs. Signs erected or suspended in the interior of a structure to be viewed from the outside provided the following conditions are adhered to:

1. No more than 50 percent of the window area is covered in signing.
2. The area of window signing shall be included in the count of maximum allowable sign area and sign number for the site.

### **D. Maximum Height**

1. Wall mounted signs shall be no higher than the second floor window sill on a building.

2. Freestanding signs shall not exceed a maximum height of six feet.

**E. The Maximum Allowable Area**

1. The maximum allowable area for all signs on a site shall be computed as 2.0 square feet per linear building frontage up to a maximum allowable area of 170 square feet except as noted below:
  - a. Buildings in excess of 100 square feet in length may be permitted an additional 1.0 square foot of sign area for each linear foot of building frontage above 100 square feet.
  - b. Each additional building frontage facing a street or parking area may have up to 0.5 square foot of sign area per linear foot of road frontage but such additional sign area may only be used on that side of the building frontage.

**F. Special Standards by Sign Type**

1. The area of wall-mounted signs shall be limited as follows:
  - a. No single wall mounted signs shall exceed 30 square feet in area.
  - b. Notwithstanding the above standard, in no district shall one wall mounted sign exceed seven percent of the total area of the face of the building wall inclusive of windows and door openings.
2. One marquee sign is permitted provided the sign area for the site does not exceed the maximum allowable sign area in that district.

**§ 6.5.8 Sign Standards Specific to Historic District**

**A. Historic District Commission to Approve**

In addition to the requirements of the underlying zoning district, within the Historic District the following specific limitation on signs shall apply:

1. A certificate of approval from the Historic District Commission is required for all new signs and existing signs that are to be altered in size, shape, and location.
2. Applicants for sign permits in the Historic District should refer to the Historic District Commission's design guidelines for signs.

**B. Compliance Upon Addition to Historic District**

Upon the inclusion of additional areas within the Historic District, all signs shall comply with this section within two years from the date the area is included within the Historic District.

**§ 6.5.9 Non-Conforming Signs**

**A. Zoning Administrator to Enforce**

The Zoning Administrator shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the date of the adoption of this Zoning Code. Such a sign does not qualify as a non-conforming sign.

**B. Non-Conforming May Continue**

Signs existing at the time of the adoption this Section and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming signs and these may be continued if properly maintained and repaired as provided in this Section except as provided below.

1. The structure, sign face, or accessories of a nonconforming sign shall not be altered, modified, changed, reconstructed or moved without bringing the sign in all respects into compliance with this Section, provided, however, that nothing herein shall prohibit the normal maintenance or repair of any nonconforming sign.
2. Under this Section, a sign is inseparable from and intrinsically a part of the land use and activity of the property on which it is located. Therefore no site plan for any property shall be approved unless it provides that all existing non-conforming signs and new signs are made to conform to the provisions of this Section.

## **§ 6.5.9      Administrative Adjustment of Sign Regulations**

### **A.      Adjustments**

The Zoning Administrator may, upon application, administratively adjust the limitations for signs in the specific instances according to the procedures of §2.2.4 of this Ordinance. An adjustment of up to ten percent to the limitations set forth in this Section with respect to the following dimension criteria is allowed: allowable sign area, height, and distance of permitted projection, setback of sign and/or, distance from other zoning lots.

### **B.      Findings**

The Zoning Administrator may only approve an administrative adjustment upon establishing the following findings:

1.      The adjustment is needed to resolve a practical difficulty unique to the property.
2.      The adjustment is the smallest necessary to grant relief of the practical difficulty.
3.      The adjustment shall in all other manners comply with the purposes and requirements of this Section.

## **§ 6.5.10**

## **Violations**

### **A. Unlawful signs**

Any sign placed in public view for which no Sign Permit has been issued, and that is not otherwise exempted from the permit requirement of this Section, is unlawful. No person shall install, place, or maintain an unlawful sign and no person shall allow, or permit the installation, placement, or maintenance of an unlawful sign on property owned by the person. The Zoning Administrator shall enforce the provisions of this Section.

### **B. Removal of Unlawful, Temporary or Portable Signs**

1. The Zoning Administrator may remove, or cause the removal of a temporary or portable sign that is constructed, placed, or maintained on publicly owned or private property in violation of this Section or other provisions of the Town Code.
2. A sign removed by the Zoning Administrator in compliance with subsection B.1 or B.2, shall be stored for a period of 15 days from the date written notice of such storage is given. If not claimed within that time period, the sign may be destroyed. Prior to the release of any stored sign, the owner shall pay a fee of \$150.00, or other amount as the Town Council, by resolution, may authorize, to the Town to defray a portion of the expenses of removing, storing, and handling the unlawful sign.
3. Notice of the storage of a sign to be given in compliance with Subsection B.3 may be given by first class mail or personal delivery to the apparent owner of the sign as ascertained from the sign itself or from other information that has been obtained by the Zoning Administrator.
4. The notice shall briefly describe the sign and what is on its face, and shall state the sign has been stored by the Town and that it will be released to the owner, upon satisfactory proof of ownership and the payment of the fee, during a stated 15-day period.
5. The notice shall state where the owner may obtain the release of the sign and contain such other information as the Administrator deems necessary or helpful.
6. Notice is deemed given on the date the notice, addressed to the apparent owner, with first class postage affixed thereto, is placed in a mail depository of the U.S. Postal Service or personally delivered to the owner or to the owner's office or home. If no apparent owner and/or no address of the apparent owner can be ascertained from the sign or other information obtained by the Zoning Administrator, no notice need be given in compliance with this Subsection, but the sign shall be stored for at least 15 days from the date it is placed in storage before it may be destroyed.

## Article 7

### Community Design Standards

## §7.1 Adequate Public Facilities

### §7.1.1 Basic Requirements

In addition to the special standards and requirements contained in this Ordinance, the following minimum conditions shall exist prior to approval of any major or minor subdivision, whether such facilities are provided by the developer, a utility, or the Town of Chesapeake City. The Planning Commission may disapprove any subdivision if it finds that any one public utility, facility, or service is not adequately provided in the proposed subdivision, including but not limited to adequate public sewer and water.

A. The following shall be minimum standards for utilities:

1. Every subdivision shall be provided with a proper telephone and electric system.
2. Public Water
  - a. Every subdivision shall be provided with complete public water distribution system adequate to serve the area being developed with pipe lines, valves, fire hydrants and other water facilities as required.
  - b. There shall be capacity in the water supply, treatment, and distribution system to serve the subdivision while accounting for the demand created by all existing lots and all approved but as yet unconnected lots.
3. Sewer Services
  - a. Every subdivision shall be provided with the sewer disposal system and facilities approved by the Health Department, the appropriate State agency, and the Town.
  - b. There shall be capacity at the wastewater treatment plant to accommodate the demand of the subdivision while accounting for the demand created by all existing lots and all approved but as yet unconnected lots.
4. Easements for new or for the continuations of existing utilities shall be provided for all subdivisions with the width and other characteristics as required by the Town and appropriate jurisdiction.
5. Every subdivision shall be provided with the satisfactory drainage and management of stormwater which conforms to the local, County, State and or federal requirements. Maintenance of stormwater management structures, ponds, or devices located outside of the public right-of-way shall be the responsibility of the property owners or developer of the subdivision or property unless this requirement is specifically waived by the Town.

6. The Planning Commission shall review each proposed subdivision to determine whether it is served by proper community access streets, sidewalks and bikeways.
7. The Planning Commission shall review each proposed subdivision to determine whether it is served by adequate open space, park, and recreational amenities.

## **7.1.2 Open Spaces, Parks, and Recreational Requirements**

### **A. Minimum Recreational Area**

All residential developments shall provide, at a minimum, recreational areas in an amount equal to 0.005 acres per dwelling unit but not be less than 5,000 square feet.

### **B. Fee In-Lieu**

The Town Council may require payment of a fee in-lieu, dedication, reservation or a combination whenever upon the Planning Commission's finding that the requirement in paragraph A above cannot adequately meet open space and recreation needs of the development or if the development is less than 30 homes or within 1,500 feet from another park or playground. The fee in-lieu shall be on a per-dwelling-unit basis. The fee shall be listed with the annual schedule of fees for the Town. Fees will be collected upon application for a building permit. The Town shall deposit fees in a designated account with funds expended only for park and recreation facilities.

### **C. Enhance Requirements for Large Developments**

For developments with over 50 dwelling units, the Planning Commission may require a combination of improved park and recreational land and playgrounds, at the minimum rate of 0.015 acre per dwelling unit.

### **D. Dedication**

When park or recreational facilities approved for dedication are completed and accepted, a deed shall be conveyed to the Town of Chesapeake City, after which the supervision and maintenance shall be the responsibility of the Town. When park or recreational facilities are reserved, the developer shall establish conditions as to ownership, maintenance, and use of such areas as deemed necessary by the Planning Commission to assure preservation of its intended purposes.

## § 7.2 Streets

### § 7.2.1 Street Classification and Typical Sections

#### A. Constructed to Town Specifications

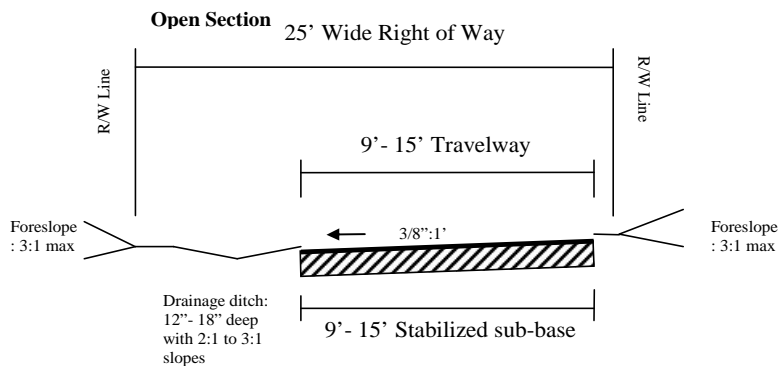
All streets, curbs, sidewalks, trails, bikeways, street lights, and street trees shall be constructed and/or installed to the design and construction specifications of the Town of Chesapeake City. The developer shall be required to repair damage to any portion of the Town right-of-way or the area to be dedicated to the Town as a result of grading or construction activities in his or her subdivision.

#### B. Street Typical Sections

In all new subdivisions, streets that are dedicated to the public use shall be classified and designed as provided below in the typical street sections

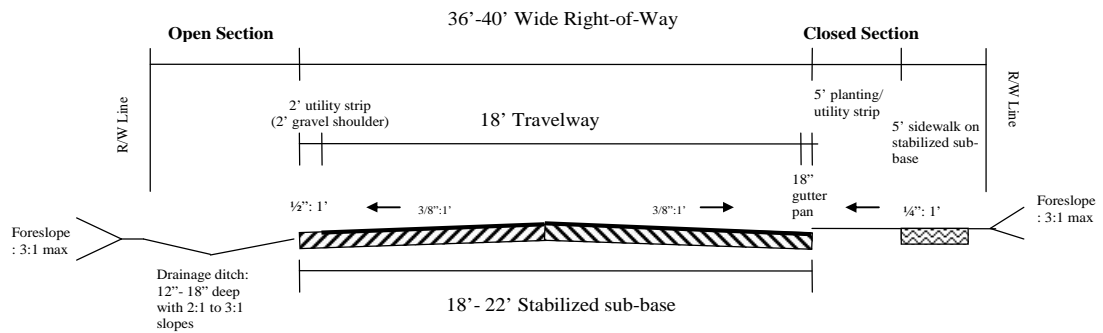
1. Alley: A street whose function it to provide access to the rear of abutting properties. It is intended to serve less than 200 average daily trips.

##### Alley Typical Section

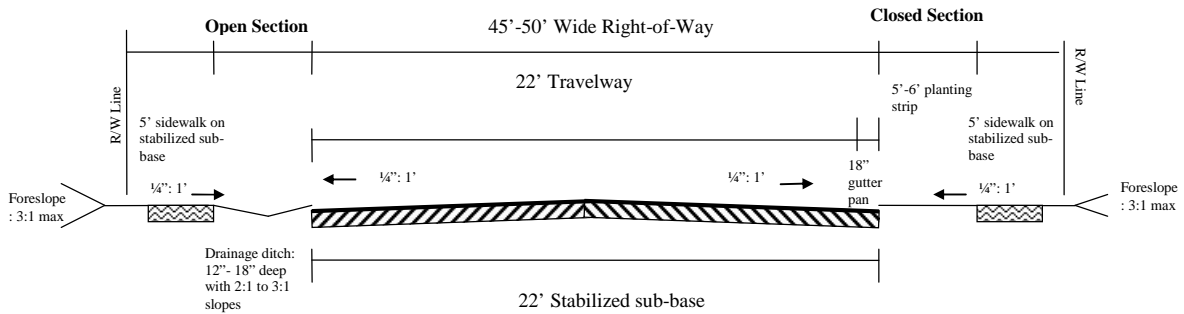


2. Residential Lane: A street whose function is to provide access to abutting properties. It is intended to serve less than 200 average daily trips.

### Residential Lane Typical Section

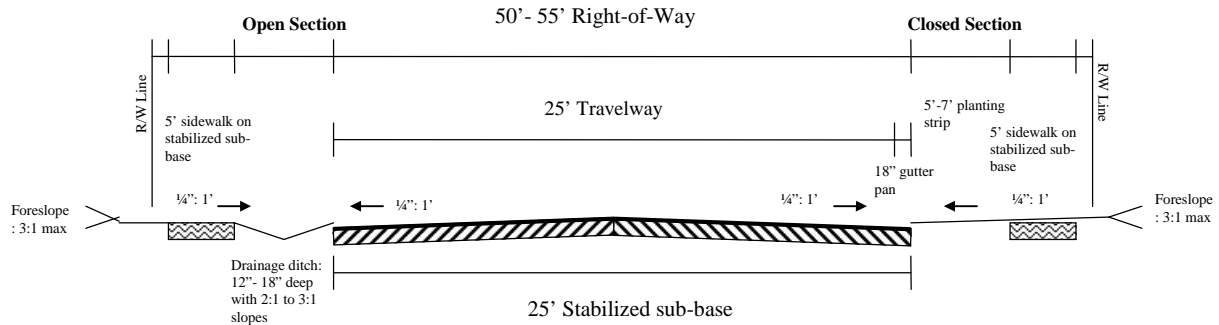


3. **Secondary Residential Street:** A street whose function is to primarily provide access to abutting property but may connect to other residential streets or lanes. It is intended to serve less than 400 average daily trips.



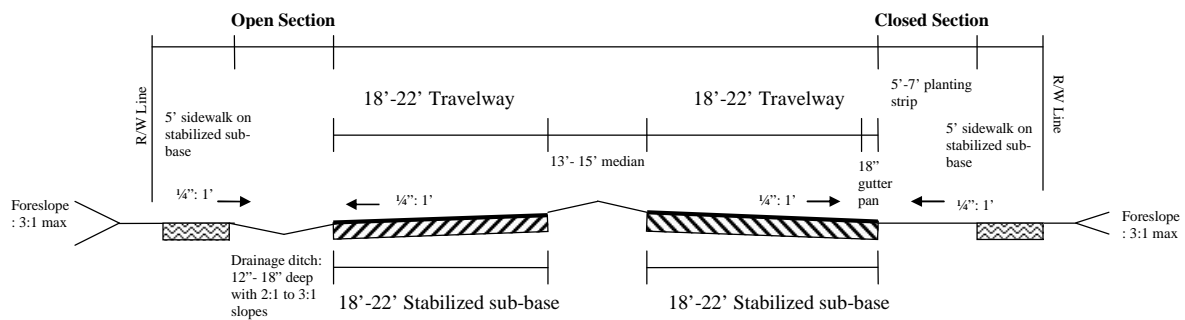
4. **Primary Residential Street:** A street whose function is to provide access to abutting property and circulation through a neighborhood. It is intended to serve between 400 and 1,500 average daily trips.

#### Primary Residential Typical Section



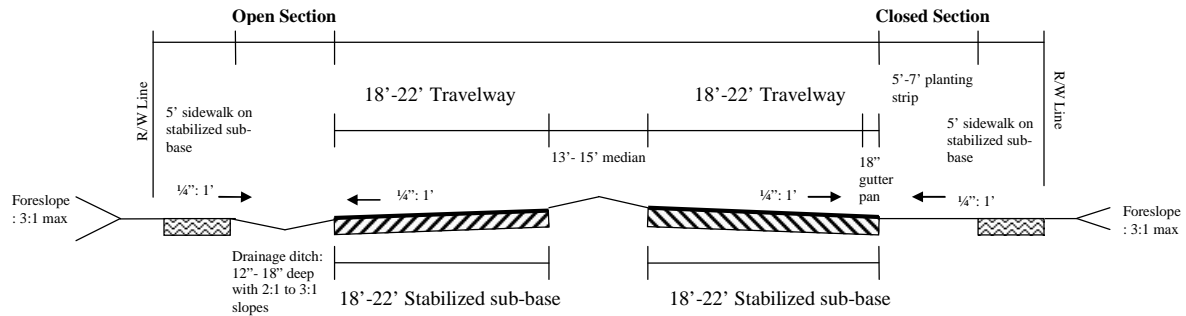
5. **Boulevard:** A street whose principal function is to carry traffic between collector and residential streets and features a broad landscaped median or to function as a collector. It is intended to serve less than 4,000 average daily trips.

#### Boulevard Typical Section



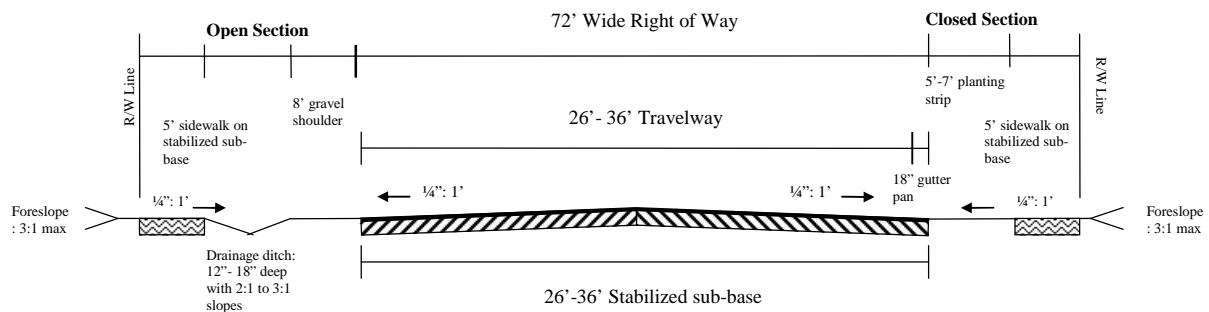
6. Secondary Commercial Street: A street whose function is to access abutting commercial uses. It is intended to serve less than 2,000 average daily trips.

#### Secondary Commercial Typical Section

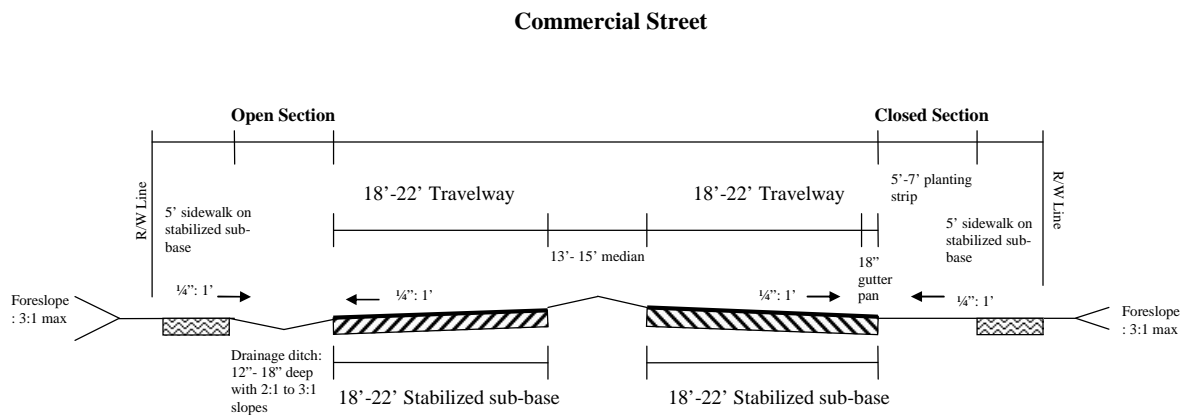


7. Primary Collector Street: A street whose principal function is to collect traffic from development areas and local streets and convey it to/from arterial highways. It is intended to carry more than 2,000 average daily trips.

#### Primary Collector Typical Section



8. **Commercial Street:** A street whose function is to provide access to abutting commercial properties and to allow parking on both sides of the street. It is intended to serve more than 2,000 average daily trips.



## B. Modifications May be Required

Wider widths of right-of-way may be required by the Town to address unusual drainage and traffic situations, to promote the development of aesthetically pleasing streets, to accommodate pedestrian and/or bicycle travel, or to otherwise to implement the Town's Comprehensive Plan. Modifications may be required to provide bio-retention practices within the street right-of-way.

## C. Modifications May be Approved

Upon request, the Planning Commission may grant minor modifications to the required typical sections upon receiving a favorable recommendation from the Town Engineer and upon establishing written findings that any such change is consistent with the purposes of this Ordinance. The Planning Commission may place reasonable conditions on any such modification so as to protect public health, safety and welfare.

## **§ 7.2.2 Street Layout**

The following provisions shall apply to the lay out and arrangement of public streets in developments.

### **A. Street Arrangement**

1. The street system shall be designed to follow existing topography minimizing cut and fill. Streets shall conform as closely as possible to the original topography. The maximum grade of a street shall be six percent however in no case may a street be constructed with grade that, in the professional opinion of the Town Engineer, creates a danger to public safety.
2. The arrangement of streets shall conform to the Comprehensive Plan or Official Map of the Town of Chesapeake City. For streets not shown, the subdivision should provide for the extension of existing streets.
3. Whenever a tract to be subdivided adjoins or encompasses any part of a street, road, trail or other public way, so designated in the Comprehensive Plan, such part of that public way shall be platted and dedicated to the Town.
4. Residential lanes and secondary streets shall be arranged to discourage through traffic.
5. Residential lanes and streets shall be arranged so as to manage the speed and volume of traffic in residential neighborhoods using traffic calming methods that encourage speeds of 25 mph or less. They include chokers, curb extensions, and lane reduces; islands and medians; traffic circles and roundabouts; texture crosswalks; curving alignments, short blocks, full and partial closures, diverters, and required turns.
6. When a major subdivision plat includes only part of the tract owned by the developer or owner of the tract under review, the layout of the proposed streets if applicable for the entire tract shall be submitted for Planning Commission approval concurrent with subdivision plat review.

### **B. Block Dimensions**

1. No Residential Lane, or Secondary or Primary Residential Street shall exceed 500 feet without intersecting another street or lane except as provided below.
2. The intersections of residential streets and lanes with Collector Streets, as designated in the Comprehensive Plan, shall occur at safe and convenient locations, preferably at Tee intersections, but generally should be spaced at least 1,320 feet apart.
3. No residential block shall be less than 200 feet in length.

### **C. Street Intersections**

1. Streets should intersect as nearly as possible at right angles but variations on this are permitted where turning movements are to be restricted as part of a planned street system. No more than two streets should intersect at any one point unless the Town Engineer certifies that such an intersection can be constructed with no extraordinary danger to public safety.
2. Wherever possible, proposed intersections along one side of a street shall coincide with existing and proposed intersections on the opposite side of such street. In any event, where a center offset (jog) occurs at an intersection, the distance between center lines of the intersection streets shall not be less than 300 feet except where the intersecting streets and the intersected street are secondary residential streets or residential lanes; in such case the distance between center lines of the intersection streets shall not be less than 200 feet.
3. Except when no other alternative is practicable or legally possible, no two streets may intersect with any other street on the same side at a distance of less than 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,320 feet or otherwise in conformance with the Maryland State Highway Administration criteria. Any site plan or subdivision with proposed access to a State Highway must obtain State Highway Administration access permit approval prior to receiving final approval from the Planning Commission.
4. The maximum grade through an intersection shall be five percent.

### **D. Circulation**

1. The street system shall be designed to permit the safe and orderly movement of traffic, to favor accessibility and mobility of pedestrians over that of motor vehicles, to meet the needs of present and future population served, to respect natural features, prominent views and topography, and to have a logical pattern built largely on a rectilinear grid.
2. Residential streets shall be designed to discourage through traffic except where the residential street may be classified as a Collector Street.
3. The street system of a subdivision shall be coordinated and connected with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots as provided in this section.
4. Pedestrian Accessibility
  - a. Except for lots on streets existing prior to June 1, 2010, every new residential lot created shall be within 600 feet walking distance from a recreational open space.

- b. Except for lots on streets existing prior to June 1, 2010, every new lot shall front onto a sidewalk which shall be a minimum of 5 feet in width and constructed to the construction specifications of the Town. In new subdivisions, sidewalks shall be installed concurrent with street installation.
- c. In the Village Commercial district, sidewalks in mix use or commercial areas shall be a minimum of 10 feet in width.
- d. To the extent practical, any new sidewalk network shall directly connect to the sidewalk network existing and planned at the time the final subdivision plat is submitted for approval.
- e. Whenever the Planning Commission finds a means of pedestrian access is necessary from a subdivision or from any un-subdivided residential development to schools, parks, playgrounds, other streets or pedestrian facilities, or any other center of activity and that such access is not conveniently provided by sidewalks adjacent to the streets, it may require the developer to provide additional sidewalks and/or trails and secure and improve unobstructed easements for pedestrian travel of at minimum of 10 feet in width.
- f. In all un-subdivided developments. Sidewalks shall be provided linking together all dwelling units, offices, stores and other activities centers as applicable including parking lots and recreational areas and facilities.
- 5. Bikeways shall be provided along all Collector Streets designated in the Comprehensive Plan at time of development. The location and alignment shall be determined upon subdivision concept plat review.

#### **E. Street Names**

- 1. Street names shall be proposed by the developer subject to the approval of the Town and the Cecil County Emergency Services. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the Town and the fire company's jurisdiction, regardless of the use of different suffixes.
- 2. A variety of suffixes may be approved by the Town such as street, avenue, or boulevard. However, the following street naming suffix criteria shall be followed where they would apply:
  - a. Alley, for a street built to the alley typical section provided in this Ordinance.
  - b. Circle, for a short street that returns to itself.
  - c. Court or place, for a cul-de-sac or dead end street.

- c. Lane, for a street built to the Residential Lane typical section provided in this Ordinance.
- d. Loop. For a street that begins at the intersection with one street and circles back to end at another intersection with the same street.

**F. Utilities**

- 1. Utilities installed in the Town shall conform to the design and construction specifications of the Town of Chesapeake City.
- 2. Where topography, maintenance and facilities management considerations, or any other considerations are such as to make it impracticable or unfavorable for the Town to have utilities or drainage facilities within a street right-of-way, perpetual unobstructed easements for such utilities shall be provided across property outside the street right-of-way of at least 10 feet in width. Such easements shall be provided prior to final plan or plat approval.

## **§7.3 Administrative Provisions for New Developments**

### **§ 7.3.1 Dedication and Acceptance of Streets and Facilities**

**A. Offer of Dedication**

Unless the recorded plat of a subdivision clearly shows a street to be private the recording of such plat shall constitute an offer of dedication of such street.

**B. Acceptance**

The approval of a final subdivision plat shall not be deemed to constitute or imply the acceptance by the Town of any street shown on said plat. Acceptance of streets by the Town occurs only after all public improvement has been completed in accordance with the Chesapeake City design and specification manual and/or any other town specifications. The Town shall inspect all such facilities and improvements.

- C.** Storm water management facilities, open spaces and other amenities not within public rights-of-way or on land planned to be dedicated to the Town will not become the maintenance responsibility of the Town of Chesapeake City. The applicant for development approval shall propose, as part of the site plan or subdivision plat approval, the entity which shall be responsible for ongoing maintenance.

## **§ 7.3.2      Bonding and Guarantee of Public Improvements**

### **A.      Town Bonding Procedures**

Bonding procedures and requirements including inspection procedures and surety release procedures shall be as specified by the Town.

### **B.      Protection Against Defects**

1.      Whenever occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bonds or the surety that is posted shall guarantee that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
2.      Whenever all public facilities or improvements intended for dedication are installed before occupancy, use or sale is authorized then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvement that occur within one year after the Town has taken title to or possession of the public facilities and/or improvements.

## Article 8

### Critical Area Regulations

## **§8.1 Critical Area Program Purpose and Goals**

### **§8.1.1 The Chesapeake City Critical Area Program**

The Chesapeake City Critical Area Program consists of the Chesapeake City Comprehensive Development Ordinance including the Official Critical Area Map.

### **§8.1.2 Goals and Implementation**

- A. The goals of the Chesapeake City Critical Area Program are to accomplish the following:
  - 1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or run off from surrounding lands;
  - 2. Conserve fish, wildlife, and plant habitat; and
  - 3. Establish land use policies for development in the Critical Area which accommodate growth as well as address the environmental impacts that the number, movement, and activities of people may have on the area.
- B. The Town of Chesapeake City Critical Area Program consists of this Ordinance and the Official Critical Area map(s).

### **§8.1.3 Regulated activities and applicability**

Any applicant for a permit or license to pursue activities within the Critical Area, including but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or sub-surface) or quarrying, farming or other agriculture-related activities shall have such permits or licenses issued by the Town after review to determine compliance with the Chesapeake City Zoning Article.

### **§8.1.4 Critical Area Overlay District Map**

- A. The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Chesapeake City. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
  - 1. All waters of and lands under the Chesapeake Bay and its tributaries to the head

of tide as indicated on the State wetland maps, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland, and

2. All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article of the Annotated Code of Maryland.
- B. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
1. Intensely Developed Area (IDA).
  2. Limited Development Area (LDA).
  3. Resource Conservation Area (RCA).
- C. The Critical Area Overlay District Map may be amended by the Mayor and Council in compliance with amendment provisions in this Article, the Maryland Critical Area Law, the Critical Area Criteria and Critical Area Regulations.

## **§8.1.5 General Requirements**

- A. Development and redevelopment shall be subject to the Habitat Protection Area requirements prescribed in this Article.
- B. Reasonable accommodations for the needs of disabled citizens.
1. An applicant seeking relief from the Critical Area standards contained in this Article in order to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of evidence the following:
    - a. The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
    - b. Literal enforcement of the provisions of this Article would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
    - c. A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Article or restore the disabled resident's or user's reasonable use or enjoyment of the property;
    - d. The accommodation requested will not substantially impair the purpose, intent, or effect, of the provisions of this Article as applied to the property; and

- e. The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation or other requirement; or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
2. The Board of Appeals shall determine the nature and scope of any accommodation under this Article and may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this Article. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist which accommodate the need with less adverse effect.
  3. The Board of Appeals may require, as a condition of approval, that upon termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Article. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

## §8.2 Districts

### §8.2.1 Intensely Developed Areas

#### A. Development Standards

For all development activities in the Intensely Developed Areas, the applicant shall identify any environmental or natural feature described below and meet all of the following standards:

1. Development activities shall be designed and implemented to minimize destruction of forest and woodland vegetation;
2. All roads, bridges, and utilities are prohibited in a Habitat Protection Area, unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction, and maintenance shall:
  - a. Provide maximum erosion protection;
  - b. Minimize negative impact on wildlife, aquatic life, and their habitats; and
  - c. Maintain hydrologic process and water quality.

1. All development activities that must cross or affect streams shall be designed to:

- 1.Reduce increases in flood frequency and severity that are attributable to development;
- 2.Retain tree canopy so as to maintain stream water temperature within normal variation;
- 3.Provide a natural substrate for stream beds; and
- 4.Minimize adverse water quality and quantity impacts of stormwater.

2. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent below the level of pollution on the site prior to development or redevelopment as provided in *Critical Area 10% Rule Guidance Manual – Fall 2003* and as may be subsequently amended.

## **§8.2.2 Limited Development Areas**

### **A. Development Standards**

For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below, and shall meet all of the following standards:

1. Development and redevelopment shall be subject to the water-dependent facilities requirements of this Article;
2. Roads, bridges, and utilities are prohibited in a Habitat Protection Area unless no feasible alternative exists. If a road, bridge or utility is authorized the design, construction and maintenance shall:
  - a. Provide maximum erosion protection;
  - b. Minimize negative impacts on wildlife, aquatic life and their habitats; and
  - c. Maintain hydrologic processes and water quality.

### **B. All development activities that must cross or affect streams shall be designed to:**

1. Reduce increases in flood frequency and severity that are attributable to development;
2. Retain tree canopy so as to maintain stream water temperature within normal variation;

3. Provide a natural substrate for stream beds; and
4. Minimize adverse water quality and quantity impacts of stormwater.
  - C. If there is a wildlife corridor system identified by the Wildlife Heritage Service on or near the site which can be enhanced by additional plantings, the applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land within and adjacent to the site in order to provide continuity of existing wildlife and plant habitats with offsite habitats. The wildlife corridor system may include Habitat Protection Areas identified in this Article. Chesapeake City shall ensure the maintenance of the wildlife corridors by requiring the establishment of conservation easements, restrictive covenants, or similar instruments approved by the Town through which the corridor is preserved by public or private groups, including homeowners associations, nature trusts and other organizations.
  - D. Development on slopes 15 percent or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.
  - E. Except as otherwise provided in this subsection, lot coverage as defined in §8.9 Critical Area Definitions is limited to 15% of a lot or parcel or any portions of a lot or parcel that are designated LDA.
    - (a) If a parcel or lot of one-half acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five (25%) of the parcel or lot.
    - (b) If a parcel or lot greater than one-half acre and less than one acre in size existed on or before December 1, 1985, then lot coverage is limited to fifteen percent (15%) of the parcel or lot.
    - (c) If an individual lot one acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
    - (d) Lot coverage limits provided in (a) and (b) above may be exceeded, upon findings by the Planning Commission or its designee that the following conditions exist:
      - (a) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008 may be considered legally nonconforming for the purposes of lot coverage requirements.
      - (b) Lot coverage associated with new development activities on the property have been minimized;
      - (c) For a lot or parcel one-half acre or less in size, total lot coverage does not exceed the lot coverage limits in §(a) by more than twenty-five percent (25%) or five hundred square feet

(500 square feet), whichever is greater;

- (d) For a lot or parcel greater than one-half acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in §(b) or five thousand, four hundred and forty-five (5,445) square feet, whichever is greater;
- (e) The following summarizes the limits set forth in (i) through (iii) above:

<b>Lot/Parcel Size (Square Feet)</b>	<b>Lot Coverage Limit</b>
0 – 8,000	25% of parcel + 500 SF
8,001 – 21, 780	31.25% of parcel
21,780 – 36,300	5,445 SF
36,301 – 43,560	15% of parcel

- (e) If the Planning Commission or its designee makes the findings set forth in (d) above and authorizes an applicant to use the lot coverage limits set forth in that paragraph, the applicant shall:
  - a. Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of Best Management Practices to improve water quality; and
  - b. Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
  - c. If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to Chesapeake City in lieu of performing the on-site mitigation. The amount of the fee shall be \$1.50 per square foot of the required mitigation.

F. The alteration of forest and developed woodlands shall be restricted and shall be mitigated as follows:

- (1) The total acreage in forest and developed woodlands within the Critical Area shall be maintained or preferably increased;
- (2) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;
- 3. If an applicant is authorized to clear more than 20 percent of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first 20 percent of the forest or developed woodlands cleared.

4. An applicant may not clear more than 30 percent of a forest or developed woodlands on a lot or parcel, unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of 3 times the areal extent of the forest or developed woodlands cleared.
    - a. If an applicant is authorized to clear any percentage of forest or developed woodland the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.
- G. The following are required for forest or developed woodland clearing as required in (7) above:
1. The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by Chesapeake City shall be posted to assure satisfactory replacement as required in (7) above and plant survival;
  2. No clearing is allowed until the Town has issued a permit. Forests and developed woodlands which have been cleared before obtaining a Town permit is a violation and shall be replanted at three times the areal extent of the cleared forest
  3. Clearing of forest or developed woodlands that exceed the maximum area allowed in (7) above or prior to the issuance of a permit shall be replanted at three times the areal extent of the cleared forest; and
  4. If the areal extent of the site limits the application of the reforestation standards in this section the applicant may be allowed to plant offsite or pay a fee in lieu of planting.
- H. If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodland cover of at least 15 percent.
1. The applicant shall designate, subject to Town approval, a new forest area on a part of the site not forested; and
  2. The afforested area shall be maintained as forest cover through easements, restrictive covenants or other protective instruments approved by the Town.

### **§8.2.3 Resource Conservation Areas**

#### **A. Development Standards**

For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:

1. Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this Article.

2. Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one dwelling unit per 20 acres.
3. Development activity within the Resource Conservation Areas shall be consistent with the requirements and standards for Limited Development Areas as specified in this Article.
4. Nothing in this section shall limit the ability of a land owner to participate in any agricultural easement program or to convey real property impressed with such an easement to family members provided that no such conveyance will result in a density greater than one dwelling unit per 20 acres.

## §8.3 Land Use and Density

### §8.3.1 Permitted Uses

- A. Permitted uses in the Critical Area shall limited to those uses allowed by the underlying zoning districts as modified by both Table 5 and the supplemental use standards in provided in §8.3.2 provided such uses meet all standards established for the Critical Area Overlay District.

**TABLE 5: PERMITTED USES IN THE CRITICAL AREA**

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	<b>Land Use Management Designation</b>		
<b>Item</b>	<b>Use Description</b>	<b>IDA</b>	<b>LDA</b>	<b>RCA</b>
<b>1.00</b>	<b>RESIDENTIAL</b>			
1.10	Accessory Dwelling Unit	P	P	PC
<b>2.00</b>	<b>INSTITUTIONAL</b>			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group Home	P	P	PC
2.50	Day Care	P	P	PC
<b>3.00</b>	<b>COMMERCIAL</b>			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC

	<b>LEGEND:</b> P = Permitted if allowed in the underlying zoning district PC = Permitted with conditions if allowed in the underlying zoning district NP = Not permitted	<b>Land Use Management Designation</b>		
Item	Use Description	IDA	LDA	RCA
3.40	Bed and breakfast facility	P	P	PC
<b>4.00</b>	<b>MARITIME/WATER DEPENDENT</b>			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research Areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Structures on Piers	PC	PC	PC
4.80	Private pier	P	P	P
<b>5.00</b>	<b>RECREATION</b>			
5.10	Golf course	P	P	PC
<b>6.00</b>	<b>INDUSTRIAL</b>			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	P	PC	NP
6.30	Non-maritime heavy industry	P	NP	NP
<b>7.00</b>	<b>TRANSPORTATION/PARKING/COMMUNICATIONS/UTILITIES</b>			
7.10	Utility transmission facilities	PC	PC	PC
<b>8.00</b>	<b>PUBLIC/QUASI-PUBLIC</b>			
8.10	Sanitary landfill; rubble fill	PC	PC	PC
8.20	Solid or hazardous waste collection or disposal facilities	PC	PC	PC
8.30	Sludge Facilities	PC	PC	PC

**B. Maximum Permitted Density**

1. The maximum permitted density for properties located in the Chesapeake City Critical Area shall be as follows:
  - a. In the Intensely Developed Area, maximum density shall be as permitted by the underlying zoning.
  - b. In the Limited Development Area, maximum density shall be as permitted by the underlying zoning.
  - c. In the Resource Conservation Area, maximum density shall be one dwelling unit per 20 acres.
2. Calculation of 1-in-20 acre density of development.

In calculating the 1-in-20 acre density of development that is permitted on a parcel located within the Resource Conservation Area, the Town:

- a. Shall count each dwelling unit;
- b. May permit the area of any private wetlands located on the property to be included under the following conditions:
  - 1. The density of development on the upland portion of the parcel may not exceed one dwelling unit per eight (8) acres; and
  - 2. The area of private wetlands shall be estimated on the basis of vegetative information as designated on the State wetlands maps or by private survey approved by the Town, the Commission, and the State Department of the Environment.

### **§8.3.2 Supplemental Use Standards**

The following supplemental use standards apply to the permitted uses listed in Table A(1)(a) above and shall apply when the permitted use is allowed in the underlying zoning district.

- A. Accessory Dwelling Unit (1.10)
  - 1. If a permitted use in the underlying zoning district, one additional dwelling unit (accessory dwelling unit) as part of a primary dwelling unit may be permitted in the Resource Conservation Area (RCA) provided that it meets the requirements found in COMAR §8-1808.1(e).
- B. Existing Institutional Uses (2.10)
  - (1) Existing institutional facilities shall be allowed in Resource Conservation Areas.
  - (2) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8 and may require growth allocation.
- C. New Institutional Uses (2.20)
  - 1. New institutional facilities and uses, except those specifically listed below shall not be permitted in Resource Conservation Areas (RCAs).
  - 2. Certain institutional uses may be permitted in Resource Conservation Areas (RCAs) if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Article. These institutional uses are limited to:
    - a. A cemetery that is an accessory use to an existing use; provided manmade lot coverage is limited to 15 percent of the site or 20,000 square feet, whichever is less;

- b. A home day care facility as defined in this Ordinance;
- c. A group home, halfway house, or intermediate care institution as defined in this Ordinance;
- d. Churches and other buildings for religious assembly;
- e. Nursing Care Institutions, Child Care Institutions
- f. Other similar uses determined by the Town and approved by the Critical Area Commission to be similar to those listed above.

D. Existing Commercial Uses (3.10)

- 1. Existing commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture or residential development shall be allowed in Resource Conservation Areas.
- 2. Expansion of existing commercial facilities and uses in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8 and may require growth allocation.

E. New Commercial Uses (3.20)

- 1. New commercial uses, except those specifically listed, shall not be permitted in Resource Conservation Areas (RCAs).
- 2. Certain commercial uses may be permitted if allowed in the underlying zoning district and if the use complies with all requirements for such uses in this Article. These commercial uses are limited to:
  - a. A home occupation as an accessory use on a residential property and as provided for in this Article;
  - b. A bed and breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility; and
  - c. Other uses determined by the Chesapeake City and approved by the Critical Area Commission to be similar to those listed above.

F. Expansion of Existing Commercial Marinas (4.10)

- 1. Expansion of existing commercial marinas may be permitted within Resource Conservation Areas provided:
  - a. Water quality impacts are quantified and appropriate Best Management Practices that address impacts are provided;

- b. That it will result in an overall net improvement in water quality at or leaving the site of the marina;
  - c. The marina meets the sanitary requirements of the Department of the Environment; and
  - d. Expansion is permitted under the nonconforming use provisions of this Article.
- 2. Expansion of existing commercial marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates:
  - a. The project meets a recognized private right or public need;
  - b. Adverse effects on water quality, fish, plant and wildlife habitat are minimized and Best Management Practices are applied to address impacts;
  - c. Insofar as possible, non-water-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer; and
  - d. Expansion is permitted under the nonconforming use provisions of this Article.

G. New Marina, Commercial (4.20)

- 1. New commercial marinas shall not be permitted in Resource Conservation Areas (RCAs).
- 2. New commercial marinas may be permitted in Limited Development Areas (LDAs) and Intensely Developed Areas (IDAs) if allowed in the underlying zoning, provided:
  - a. New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
  - b. New marinas meet the sanitary requirements of the Department of the Environment.
  - c. New marinas may be permitted in the Buffer in the Intensely Developed Areas and Limited Development Areas provided that it can be shown:
    - i. The project meets a recognized private right or public need;
    - ii. Adverse effects on water quality, fish, plant and wildlife habitat are minimized and Best Management Practices are applied to address impacts; and
    - iii. Insofar as possible, non-water-dependent structures or operations

associated with water-dependent projects or activities are located outside the Buffer.

H. Community Piers and Non-commercial Boat Docking and Storage (4.30)

1. New or expanded community marinas and other non-commercial boat-docking and storage facilities may be permitted in the Buffer subject to the requirements in this Article provided that:
  - a. These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
  - b. The facilities are community-owned and established and operated for the benefit of the residents of a platted and recorded riparian subdivision;
  - c. The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all State requirements and the requirements of this Article applicable to the Critical Area;
  - d. Disturbance to the Buffer is the minimum necessary to provide a single point of access to the facilities and Best Management Practices are applied to address impacts; and
  - e. If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.
2. Number of slips or piers permitted.

The number of slips or piers permitted at the facility shall be the lesser of §a or §b below:

- a. One slip for each 50 feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each 300 feet of shoreline in the subdivision in the Resource Conservation Area; or

- b. A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

**TABLE 6 NUMBER OF SLIPS PERMITTED**

<b>Platted Lots or Dwellings in the Critical Area</b>	<b>Slips</b>
up to 15	1 for each lot
16 – 40	15 or 75% whichever is greater
41 – 100	30 or 50% whichever is greater
101 – 300	50 or 25% whichever is greater
over 300	75 or 15% whichever is greater

**I. Public beaches and Public Water-Oriented Recreational and Educational areas (4.40)**

1. Public beaches or other public water-oriented recreation or education areas including, but not limited to, publicly owned boat launching and docking facilities and fishing piers may be permitted in the Buffer in Intensely Developed Areas.
2. These facilities may be permitted within the Buffer in Limited Development Areas and Resource Conservation Areas provided that:
  - i. Adequate sanitary facilities exist;
  - ii. Service facilities are, to the extent possible, located outside the Buffer;
  - iii. Permeable surfaces are used to the extent practicable, if no degradation of groundwater would result;
  - iv. Disturbance to natural vegetation is minimized and Best Management Practices are applied to address impacts and Best Management Practices are applied to address impacts; and
  - v. Areas for possible recreation, such as nature study, and hunting and trapping, and for education, may be permitted in the Buffer within Resource Conservation Areas if service facilities for these uses are located outside of the Buffer.

**J. Research Areas (4.50)**

1. Water-dependent research facilities or activities operated by State, Federal, or local agencies or educational institutions may be permitted in the Buffer, if non-water-dependent structures or facilities associated with these projects are, to the extent possible, located outside of the Buffer.

K. Fisheries Activities (4.60)

1. Commercial water-dependent fisheries including, but not limited to structures for crab shedding, fish off-loading docks, shellfish culture operations and shore-based facilities necessary for aquaculture operations and fisheries activities may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas and Resource Conservation Areas.

L. Structures on Piers (4.70)

1. Except as provided in 1, 2, and 3 below, construction of dwelling unit or other non-water-dependent structure on a pier located on State or private tidal wetlands is prohibited.
  - a. A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved provided a permit was issued by the Department of Natural Resources on or before January 1, 1989.
  - b. A building permit for a project involving the construction of a dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved if the following conditions exist:
    - a. The project is located in an Intensely Developed Area (IDA);
    - b. The project is constructed on a pier that existed as of December 1, 1985 that can be verified by a Department of Natural Resources aerial photograph dated 1985, accompanied by a map of the area; and
    - c. The project does not require an expansion of the pier greater than 25% of the area of piers or dry docks removed on the same property; however, additional expansion may be allowed in the amount of 10% of the water coverage eliminated by removing complete piers from the same or other properties. If the horizontal surface of a pier to be removed is not intact, but pilings identify its previous size, then that area may be used in determining the additional expansion permitted. The project expansion based on water coverage eliminated can be considered only if all nonfunctional piers on the property are removed except for the project pier. The total expansion may not exceed 35% of the original size of the piers and dry docks removed.
  - c. A building permit for the repair of an existing dwelling unit or other non-water-dependent structure on a pier located on State or private wetlands within the Critical Area may be approved.

- d. If a structure that is not water-dependent is permitted under the exceptions included in this section, an applicant is required to demonstrate that the project will meet the following environmental objectives using the standards established herein:
  - i. The construction and operation of the project will not have a long term adverse effect on the water quality of the adjacent body of water;
  - ii. The quality of stormwater runoff from the project will be improved; and
  - iii. Sewer lines or other utility lines extended for the pier will not affect the water quality of adjoining waters.

M. Golf Course (5.10)

- 1. A golf course, excluding main buildings and/or structures such as the clubhouse, pro-shop, parking lot, etc., may be permitted in Resource Conservation Areas (RCAs) provided:
  - a. Such use is a permitted use allowed in the underlying zoning district; and
  - b. Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.

N. Existing Industrial Uses (6.10)

- 1. Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture may be permitted in Resource Conservation Areas.
- 2. Expansion of existing industrial facilities and use in the Resource Conservation Area shall be subject to the non-conforming use provisions of this Article and the Grandfathering provisions in §8 and may require growth allocation.

O. New Industrial Uses (6.20)

- 1. New industrial uses shall not be permitted in Resource Conservation Areas
- 2. New, expanded or redeveloped industrial facilities may only be permitted in Limited Development Areas if permitted uses in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
- 3. New, expanded or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Buffer Management Areas.

P. Non-Maritime Heavy Industry (6.3)

1. Non-maritime heavy industry may be permitted if:
  - a. The site is located in an Intensely Developed Area; and
  - b. The activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.

Q. Utility Transmission Facilities (7.10)

1. Utility transmission facilities, except those necessary to serve permitted uses, or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:
  - a. The facilities are located in Intensely Developed Areas and
  - b. Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
2. These provisions do not include power plants.

R. Sanitary Landfill; Rubble Fill (8.10)

1. Sanitary landfills or rubble fills may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
2. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

S. Solid or Hazardous Waste Collection or Disposal Facilities (8.20)

1. Solid or hazardous waste collection or disposal facilities, including transfer stations may not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area, and these development activities or facilities are needed in order to correct an existing water quality wastewater management problem.
2. Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.

T. Sludge Facilities (8.40)

1. Permanent sludge handling, storage and disposal facilities, other than those associated with wastewater treatment facilities may be permitted in the Critical Area provided:

- a. The facility or activity is located in an Intensely Developed Areas; and
  - b. Only after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
2. Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100 foot-Buffer.

## §8.4 Growth Allocation

### §8.4.1 Acreage and Designation

- a. Growth allocation acreage

Growth allocation available to Chesapeake City includes:

- (a) An area equal to five (5) percent of the RCA acreage located within Chesapeake City and;
- (b) Growth allocation available to Chesapeake City as provided for by Cecil County.

- B. Growth Allocation Floating Zone District GA.

1. Purpose. The Growth Allocation Floating Zone is not mapped but is designated for use in areas classified as Resource Conservation Areas (RCA) and/or Limited Development Area (LDA) within the Chesapeake City Critical Area Overlay District. The purpose of the floating zone is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification. Only projects which have been approved by the Mayor and Council for award of the Critical Area Growth Allocation are eligible for floating zones.
2. Designation of floating zones.
  - a. The Growth Allocation District GA shall be a floating zone.
  - b. The Growth Allocation District GA provides for changing the land management classification of Resource Conservation Areas (RCA's) and Limited Development Areas (LDA's) in the Critical Area Overlay District.

## **§8.4.2 Standards for Designation**

- a. When locating new Intensely Developed or Limited Development Areas the following standards shall apply:
  1. A new Intensely Developed Area shall only be located in a Limited Development Area or adjacent to an existing Intensely Developed Area;
  2. A new Limited Development Area shall only be located adjacent to an existing Limited Development Area or an Intensely Developed Area;
  3. New Intensely Developed Areas shall be at least 20 acres in size unless:
    1. They are contiguous to an existing IDA or LDA; or
    2. They are a grandfathered commercial or industrial use, which existed as of January 1988. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
  4. No more than one-half of the Chesapeake City's growth allocation may be located in Resource Conservation Areas (RCAs) except as provided in subsection (9) below;
  5. New Limited Development Areas or Intensely Developed Areas shall be located in a manner that minimizes impacts to Habitat Protection Area as defined herein and in COMAR 27.01.09 and in an area and manner that optimizes benefits to water quality;
  6. New Intensely Developed Areas shall only be located where they minimize their impacts to the defined land uses of the Resource Conservation Area (RCA);
  7. New Intensely Developed Area or a Limited Development Area in a Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal wetlands or tidal waters;
  8. New Intensely Developed or Limited Development Areas to be located in Resource Conservation Areas shall conform to all criteria of this Article for such areas, shall be so designated on the Chesapeake City Critical Area Maps and shall constitute an amendment to this Article subject to review by the Chesapeake City Planning Commission and approval by the Mayor and Council and the Critical Area Commission as provided herein.
  9. If Chesapeake City is unable to utilize a portion of its growth allocation as set out in (1) and (2) above within or adjacent to existing Intensely Developed or Limited Development Areas, then that portion of the growth allocation which cannot be so located may be located in the Resource Conservation Areas in addition to the expansion allowed in (4) above.

B. Additional Factors

In reviewing map amendments or refinements involving the use of growth allocation the Planning Commission and Mayor and Council shall consider the following factors:

- Consistency with Chesapeake City Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. “Consistency with” means that a standard or factor will further, and not be contrary to the following items in the comprehensive plan:
  - (a) Policies;
  - (b) Timing of the implementation of the plan, of development, and of rezoning;
  - (c) Development patterns;
  - (d) Land uses; and
  - (e) Densities or intensities.
- 2. For a map amendment or refinement involving a new Limited Development Area, whether the development is:
  - (1) To be served by a public wastewater system;
  - (2) A completion of an existing subdivision;
  - (3) An expansion of an existing business; or
  - (4) To be clustered.
- 3. For a map amendment or refinement involving a new Intensely Developed Area, whether the development is:
  - (1) To be served by a public wastewater system;
  - (2) If greater than 20 acres, to be located in a designated Priority Funding Area; and
  - (3) To have a demonstrable economic benefit.
- 4. The use of existing public infrastructure, where practical;
- 5. Consistency with State and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on- or off-site;
- 6. Impacts on a priority preservation area;

7. Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
8. Environmental impacts associated with location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development and/or sea level rise.

## §8.5 Administration and Enforcement

### §8.5.1 Grandfathering

#### A. Continuation of Existing Uses

1. The continuation, but not necessarily the intensification or expansion, of any use in existence on January 1988 may be permitted, unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal Articles.
2. If any existing use does not conform with the provisions of this Article, its intensification or expansion may be permitted only in accordance with the variance procedures in 9.

#### B. Residential Density on Grandfathered Lots

1. Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling, if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this Article.
  - (1) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985.
  - (2) Land that received a building permit subsequent to December 1, 1985, but prior to January 1988.
  - (3) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984 and December 1, 1985.
  - (d) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985 and provided that either development of any such land conforms to the IDA, LDA or RCA requirements in this Article or the area of the land has been counted against the growth allocation permitted under this Article.

C. Consistency

Nothing in this Section may be interpreted as altering any requirements of this Article related to water-dependent facilities or Habitat Protection Areas.

## **§8.5.2 Variances**

A. Applicability

Chesapeake City has established provisions where, owing to special features of a site or other circumstances, implementation of this Article or a literal enforcement of provisions within this Article would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.

1. In considering an application for a variance, the Board of Appeals shall presume that the specific development activity in the Critical Area, that is subject to the application and for which a variance is required, does not conform with the general purpose and intent of Natural Resources Article, Title 8 Subtitle 18, COMAR Title 27, and the requirements of this Article.
2. Unwarranted hardship means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

B. Standards

The provisions for granting such a variance shall include evidence submitted by the applicant that the following standards are met:

1. Special conditions or circumstances exist that are peculiar to the land or structure involved and that a literal enforcement of provisions and requirements of this Article would result in unwarranted hardship;
2. A literal interpretation of the provisions of this Article will deprive the applicant the use of land or a structure permitted to others in accordance with the provisions of this Critical Area Ordinance;
3. The granting of a variance will not confer upon an applicant any special privilege that would be denied by this Article to other lands or structures within the Critical Area;
4. The variance request is not based upon conditions or circumstances which are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or non-

conforming on any neighboring property; and

5. The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife or plant habitat within the Critical Area and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law and this Article.

C. Process

Applications for a variance will be made in writing to the Board of Appeals with a copy provided to the Critical Area Commission. The Board of Appeals shall follow its established procedures for advertising and notification of affected landowners.

1. After hearing an application for a Critical Area variance, the Board of Appeals shall make written findings reflecting analysis of each standard.
2. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact.
3. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in A above.
4. The Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.

D. Findings

Based on competent and substantial evidence, the Board of Appeals shall make written findings as to whether the applicant has overcome the presumption of nonconformance as established in A above, and if applicable B above. With due regard for the person's technical competence, and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:

- (a) The applicant;
- (b) Town Officials or staff or any other government agency; or
- (c) Any other person deemed appropriate by the Board of Appeals.

E. Appeals

Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation or governmental agency aggrieved or adversely affected by any decision made under this Article.

F. Conditions and Mitigation

The Board of Appeals shall impose conditions on the use or development of a property

which is granted a variance as it may find reasonable to ensure that the spirit and intent of this Article is maintained including, but not limited to the following:

1. Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the Planning Commission, but not less than by planting on the site at the rate of at least three to one per square foot of the variance granted.
5. New or expanded structures or lot coverage shall be located the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.

G. Commission Notification.

Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. No permit for the activity that was the subject of the application will be issued until the applicable 30-day appeal period has elapsed.

### **§8.5.3 Lot Consolidation and Reconfiguration**

A. Applicability

The provisions of this section apply to a consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot. These provisions do not apply to the reconfiguration or consolidation of parcels or lots which are conforming or meet all Critical Area requirements. Nonconforming parcels or lots include:

- i. Those for which a Critical Area variance is sought or has been issued; and
- ii. Those located in the Resource Conservation Area and are less than 20 acres in size.

B. Procedure

An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08.E.

1. Chesapeake City will not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F.
2. The Planning Commission shall issue a final written decision or order granting or denying an application for a consolidation or reconfiguration.
  - a. After a final written decision or order is issued, the Planning Commission shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by U.S. mail to

the Critical Area Commission's business address.

## **§8.5.4 Amendments**

### **A. Amendments**

The Mayor and Council may from time to time amend the Critical Area provisions of this Article. Changes may include, but are not limited to amendments, revisions, and modifications to these zoning regulations, Critical Area Maps, implementation procedures, and local policies that affect Chesapeake City's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in §8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law §8-1809(i) and §8-1809(d), respectively.

### **B. Zoning Map Amendments**

Except for program amendments or program refinements developed during a six-year comprehensive review, a zoning map amendment may only be granted by Mayor and Council upon proof of a mistake in the existing zoning. This requirement does not apply to proposed changes to a zoning map that meet the following criteria:

- (ii) Are wholly consistent with the land classifications as shown on the adopted Critical Area Overlay Map; or
- (iii) The use of growth allocation in accordance with the growth allocation provisions of this Article is proposed.

### **C. Process**

- (a) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and research. Upon completing Findings of Fact, these documents shall be forwarded to the Mayor and Council.
- (b) Mayor and Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Chesapeake City.
- (c) After the Mayor and Council approve an amendment, they shall forward their decision and applicable resolutions along with the amendment request to the Critical Area Commission for final approval.

## **§8.5.5 Enforcement**

### **A. Consistency**

The Critical Area provisions of this Article, in accordance with the Critical Area Act and Criteria supersede any inconsistent law, Article or plan of Chesapeake City. In the case of conflicting provisions, the stricter provisions shall apply.

### **B. Violations**

1. No person shall violate any provision of this Article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
2. Each person who violates a provision of this Article shall be subject to separate administrative civil penalties, abatement and restoration orders, and mitigation for each offense.
3. Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this Article and shall be enforced as provided herein.

### **C. Responsible persons**

The following persons may each be held jointly or severally responsible for a violation: (1) persons who apply for or obtain any permit or approval, (2) contractors, (3) subcontractors, (4) property owners, (5) managing agents, or (6) any person who has committed, assisted, or participated in the violation.

### **D. Required Enforcement Action**

In the case of violations of this Article, the Town shall take enforcement action including:

1. Assess administrative civil penalties as necessary to cover the costs associated with performing inspections, supervising or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
2. Issue abatement, restoration, and mitigation orders as necessary to:
  - a. Stop unauthorized activity;
  - e. Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and
3. Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.

E. Right to enter property

Except as otherwise authorized and in accordance with the procedures specified herein, the Mayor and Council or their designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this Article has occurred, is occurring, or will occur. Town officials shall make a reasonable effort to contact a property owner before obtaining access to or enter the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.

F. Administrative civil penalties

In addition to any other penalty applicable under State or Town law, every violation of a provision of Natural Resources Article, Title 8 Subtitle 18 or Critical Area provisions of this Article shall be punishable by a civil penalty of up to \$10,000 per calendar day.

1. Before imposing any civil penalty, the person(s) believed to have violated this Article shall receive: written notice of the alleged violation(s) including which, if any, are continuing violations, and an opportunity to be heard. The amount of the civil penalty for each violation, including each continuing violation, shall be determined separately. For each continuing violation, the amount of the civil penalty shall be determined per day. In determining the amount of the civil penalty, the Town shall consider:
  - a. The gravity of the violation;
  - b. The presence or absence of good faith of the violator;
  - c. Any willfulness or negligence involved in the violation including a history of prior violations;
  - d. The environmental impact of the violation; and
  - e. The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to Chesapeake City for performing, supervising, or rendering assistance to the restoration and mitigation.
2. Administrative civil penalties for continuing violations shall accrue for each violation, every day each violation continues, with no requirements for additional assessments, notice, or hearings for each separate offense. The total amount payable for continuing violations shall be the amount assessed per day for each violation multiplied by the number of days that each violation has continued.
3. The person responsible for any continuing violation shall promptly provide the Town with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for Town inspection to verify compliance. Administrative civil penalties for continuing violations continue to accrue as set forth herein until the Town receives such written notice and verifies compliance.

by inspection or otherwise.

4. Assessment and payment of administrative civil penalties shall be in addition to and not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.
5. Payment of all administrative civil penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this Article.

G. Cumulative Remedies

The remedies available to the Town under this Article are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude pursuit of others.

H. Injunctive Relief

1. The Town may institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this Article, an administrative order, a permit, a decision, or other imposed condition.
2. The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition, or to restrain a violation pending the outcome of the appeal or judicial review.

I. Variances Pursuant to a Violation

The Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subtitle or any provisions of an order, permit, plan, or this Article in accordance with the variance provisions of this Article. However, the application shall not be reviewed, nor shall a final decision be made until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town.

J. Permits Pursuant to a Violation.

The Town will not issue any permit, approval, variance, or special exception, unless the person seeking the permit has:

1. Fully paid all administrative, civil, or criminal penalties as set forth in §F. above;
2. Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;
3. Performed the abatement measures in the approved plan in accordance with all Town regulations; and
4. Unless an extension of time is approved by the Town because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.

## K. Appeals

An appeal to the Board of Appeals may be filed by any person aggrieved by any order, requirement, decision or determination by the Town in connection with the administration and enforcement of this Article.

1. An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions of this Article and accompanied by the appropriate filing fee.
2. An appeal must be filed within thirty (30) days after the date of the decision or order being appealed; and
3. An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed, unless the Town certifies to the Board of Appeals that (because of facts stated in the certificate) such stay will cause imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of a court on application of the party seeking the stay.

## §8.6 The 100-Foot Buffer

### §8.6.1 Applicability and Delineation

An applicant for a development activity or a change in land use shall apply all of the required standards for a minimum 100-foot Buffer as described in this part. The provisions of this chapter do not apply to an area of the Buffer that is designated as a Buffer Management Area (BMA) under Section 8.6.3. The minimum 100-foot Buffer shall be delineated in the field and shall be shown on all applications as follows:

1. The minimum 100-foot Buffer is delineated based on existing field conditions landward from:
  - a. The mean high water line of tidal water;
  - b. The edge of each bank of a tributary stream; and
  - c. The upland boundary of a tidal wetland.
2. The Buffer shall be expanded beyond the minimum 100-foot Buffer as described in A(1) above and the minimum 200-foot Buffer as described in A(3) below, to include the following contiguous land features:

- a. A steep slope at a rate of four feet for every one percent of slope or the entire steep slope to the top of the slope, whichever is greater;
  - b. A nontidal wetland to the upland boundary of the nontidal wetland;
  - c. The 100-foot buffer that is associated with a Nontidal Wetland of Special State Concern as stated in COMAR §26.23.06.01;
  - d. For an area of hydric soils or highly erodible soils, the lesser of:
    - i. The landward edge of the hydric or highly erodible soils; or
    - ii. Three hundred feet where the expansion area includes the minimum 100-foot Buffer.
3. Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008 shall include:
- a. An expanded Buffer in accordance with A(2) above; or
  - b. A Buffer of at least 200 feet from a tidal waterway or tidal wetlands; and a Buffer of at least 100-feet from a tributary stream, whichever is greater.
4. The provisions of A(3) above do not apply if:
- a. The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans), by July 1, 2010;
  - b. The application involves the use of growth allocation.

## **§8.6.2 Permitted activities**

### **B. Buffer Disturbance**

If approved by the Town, disturbance to the Buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management as required per Section E of this Part:

- 1. A new development or redevelopment activity associated with a water-dependent facility; or
- 2. A shore erosion control activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, and this Article;
- 3. A development or redevelopment activity approved in accordance with the variance provisions of this Article;

4. A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010 where:
  - a. The Buffer is expanded for highly erodible soil on a slope less than 15 percent or is expanded for a hydric soil and the expanded Buffer occupies at least 75% of the lot or parcel;
  - b. The development or redevelopment is located in the expanded portion of the Buffer and not within the 100-foot Buffer; and
  - c. Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity that is in the expanded Buffer.

B. Buffer Establishment in Vegetation

An applicant for a development activity, redevelopment activity or a change in land use that occurs outside the Buffer, but is located on a on a riparian lot or parcel that includes the minimum 100-foot Buffer, shall establish the Buffer in vegetation if the Buffer is not fully forested or fully established in woody or wetland vegetation. A Buffer Management Plan in accordance with the standards of Section E below is required.

1. The provisions of this section apply to:
  - (86) Approval of a subdivision;
  - (87) A lot or parcel that is converted from one land use to another;
    - (c) Development or redevelopment on a lot or parcel created before January 1, 2010.
2. The provisions of this section do not apply to an in-kind replacement of a structure.
3. When the Buffer is not fully forested or fully established in existing, naturally occurring woody or wetland vegetation, the Buffer shall be established through planting in accordance with COMAR 27.01.09.01-1.
4. The Town may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the Buffer if;
  - (1) The lot coverage existed before the date of January 1988 or was allowed by local procedures; and
  - (2) The total area is stabilized with native vegetation.

C. Mitigation for Impacts to the Buffer

An applicant for a development activity that includes disturbance to the Buffer shall

mitigate for impacts to the Buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this section.

1. Authorized development activities may include a variance, subdivision, site plan, shore erosion control permit, building permit, grading permit, and special exception.
2. All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2H.
3. All unauthorized development activities in the Buffer shall be mitigated at a ratio of 4:1 for the area of disturbance in the Buffer.
4. Planting for mitigation shall be planted onsite within the Buffer. If mitigation planting cannot be located within the Buffer, the Town may permit planting in the following order of priority:
  - a. On-site and adjacent to the Buffer; and
  - b. On-site elsewhere in the Critical Area.

D. Buffer Planting Standards.

1. An applicant that is required to plant the Buffer for Buffer establishment or Buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2 and 4.
2. A variance to the planting and mitigation standards of this Article is not permitted.

E. Required Submittal of Buffer Management Plans.

An applicant that is required to plant the Buffer to meet establishment or mitigation shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3 with the application for the specific activity. The provisions of this part do not apply to maintaining an existing grass lawn or an existing garden in the Buffer.

1. A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted and state if the applicant is:
  - i. Fully establishing the Buffer;
  - ii. Partially establishing an area of the Buffer equal to the net increase in lot coverage, or
  - iii. Partially establishing an area of the Buffer equal to the total lot coverage.
2. Any permit for development activity or tree and / or shrub clearing that requires Buffer establishment or Buffer mitigation will not be issued until the Town approves a Buffer Management Plan.

3. An applicant may not obtain final approval of a subdivision application until the Buffer Management Plan has been reviewed and approved.
4. The Town will not approve a Buffer Management Plan unless:
  - a. The plan clearly indicates that all planting standards under §D will be met; and
  - b. Appropriate measures are in place for the long-term protection and maintenance of all Buffer areas.
5. For a Buffer Management Plan that is the result of an authorized disturbance to the Buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
  - a. Completes implementation of a Buffer Management Plan; or
  - b. Provides financial assurance to cover the costs for:
    - i. Materials and installation; and
    - ii. If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2.
6. Concurrent with recordation of a subdivision plat, an applicant shall record a protective easement for the Buffer.
7. If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this Article.
  - (d) A permit for development activity will not be issued for a property that has the violation.
8. An applicant shall post the property proposed for subdivision with durable signs prior to final recordation in accordance with COMAR 27.01.09.01-2.
9. Buffer management plans that includes natural regeneration shall follow the provisions of COMAR 27.01.09.01-4

F. Fees-In-Lieu of Buffer Mitigation

A fee in-lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met onsite in accordance with the following standards:

- (27) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to Chesapeake City's general fund;
- (28) Fee-in-lieu shall be assessed at \$1.50 per square foot of required Buffer mitigation;

(29) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed 20% of the fees collected; and

(30) Fee-in-lieu monies shall be used for the following projects:

- (1) To establish the Buffer on sites where planting is not a condition of development or redevelopment;
- (2) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.

G. Shore Erosion Control Projects

Shore erosion control measures are permitted activities within the Buffer in accordance with the following requirements:

- i. An applicant for a shore erosion control project that affects the Buffer in any way, including, but not limited to access, vegetation removal and pruning, or backfilling shall submit a Buffer Management Plan in accordance with the requirements of this section; and
- ii. Comply fully with all of the policies and criteria for a shore erosion control project stated in COMAR 27.01.04 and COMAR 26.24.06.01.

### **§8.6.3 Buffer Management Area (BMA) Provisions**

A. Development and Redevelopment Standards.

New development or redevelopment activities, including structures, roads, parking areas and other impervious surfaces or septic systems will not be permitted in the Buffer in a designated BMA unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize Buffer impacts and the development complies with the following standards:

2. Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
3. Variances to other local setback requirements have been considered before additional intrusion into the Buffer.
4. Commercial, industrial, institutional, recreational and multi-family residential development and redevelopment shall meet the following standards:

- a. New development, including accessory structures, shall minimize the extent of intrusion into the Buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or 50 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.
  - b. Redevelopment, including accessory structures, shall minimize the extent of intrusion into the Buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the minimum setback for the zoning district or 25 feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.
- 4. Single family residential development and redevelopment shall meet the following standards:
  - a. New development or redevelopment shall minimize the shoreward extent of intrusion into the Buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the minimum setback for the zoning district, whichever is greater. In no case shall new development or redevelopment be located less than 50 feet from the water (or the edge of tidal wetlands).
  - b. Existing principal or accessory structures may be replaced in the same footprint.
  - c. New accessory structures may be located closer to the water than the setback if the Planning Commission has determined there are no other locations for the structures. The area of new accessory structures shall not exceed 500 square feet within 50 feet of the water and 1,000 square feet total in the Buffer.
- 5. Variances to other local setback requirements shall be considered before additional intrusion into the Buffer is permitted.
- 6. Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the Buffer, including nontidal wetlands, other State or federal permits notwithstanding.
- 7. Buffer Management Area (BMA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the Buffer or to create additional buildable land for new development or redevelopment.
- 8. No natural vegetation may be removed in the Buffer except that required by the proposed construction.
- 9. Mitigation for development or redevelopment in the in the BMA approved under the provisions of this subsection shall be implemented as follows:

- a. Natural forest vegetation of an area twice the extent of the footprint of the development activity within the 100-foot Buffer shall be planted on site in the Buffer or at another location approved by the Planning Commission.
- b. Applicants who cannot fully comply with the planting requirement in §(a) above, may use offset by removing an equivalent area of existing lot coverage in the Buffer.
- c. Applicants who cannot comply with either the planting or offset requirements in §(a) or §(b) above shall pay into a fee-in-lieu program as follows:
  - i. Applicants shall submit to the Planning Commission two cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the 100-foot Buffer. The estimate shall include the cost of stock, planting, staking, mulching and a one year survival guarantee.

(88) The Planning Commission shall determine the amount of the fee-\_\_\_in-lieu based on the average of the two estimates.

f. Any fees-in-lieu collected under these provisions shall be placed in an account that will assure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Chesapeake City's Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing local, State, or federal laws, regulations, statutes, or permits. The status of these funds must be reported in the jurisdiction's quarterly reports.

g. Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes or other instrument approved by the Town and recorded among the land records of the County.

## §8.7 Other Habitat Protection Areas

### §8.7.1 Identification

An applicant for a development activity, redevelopment activity or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this section. Habitat Protection Areas include:

- Threatened or endangered species or species in need of conservation;
- Colonial waterbird nesting sites;
- Historic waterfowl staging and concentration areas in tidal waters, tributary streams or tidal and nontidal wetlands;
- Existing riparian forests;
- Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
- Other plant and wildlife habitats determined to be of local significance;
- Natural Heritage Areas; and
- Anadromous fish propagation waters.

### §8.7.2 Standards

- A. An applicant for a development activity proposed for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
- B. If the presence of a Habitat Protection Area is confirmed by the Department of Natural Resources, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resource.
- C. The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission or the appropriate designated approving authority. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

## §8.8 Critical Area Definitions

The following words have the following meanings for the purposes of interpreting and implementing only Article 8 of this Ordinance, the Critical Area Program. The singular always includes the plural, and vice versa, except where such construction would be unreasonable:

1. "Abatement" means the act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.
2. "Accessory structure" means a structure that is detached from the principal structure, located on the same lot and clearly incidental and subordinate to a principal structure, or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.
3. "Addition" means newly constructed area that increases the size of a structure.
4. "Afforestation" means the establishment of a tree crop on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.
5. "Agriculture" means all methods of production and management of livestock, crops, vegetation, and soil. This includes, but is not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of feeding, housing, and maintaining of animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.
6. "Agricultural easement" means a non-possessory interest in land which restricts the conversion of use of the land, preventing non-agricultural uses.
7. "Anadromous fish" means fish that travel upstream (from their primary habitat in the ocean) to freshwater in order to spawn.
8. "Anadromous fish propagation waters" means those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The streams are identified by the Department of Natural Resources.
9. "Aquaculture" means: (a) Farming or culturing of finfish, shellfish, other aquatic plants or animals or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments; (b) Activities include hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas; and (c) Cultivation methods include, but are not limited to, seed or larvae development and grow out facilities, fish ponds, shellfish rafts, rack and longlines, seaweed floats and the culture of clams and oysters on tidelands and subtidal areas. For the purpose of this definition, related activities such as wholesale and retail sales, processing and product storage facilities are not considered aquacultural practices.

10. "Best Management Practices (BMPs)" means conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxics and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.
11. "Buffer" means area that is based on conditions at the time of development is immediately landward from mean high water of tidal waterways, the edge of each bank of a tributary stream, or the landward edge of a tidal wetland; and the area exists in, or is established in, natural vegetation to protect a stream, tidal wetland, tidal waters or terrestrial environments from human disturbance. The Buffer includes an area of at least 100-feet even if that area was previously disturbed by human activity or is currently developed and also include any expansion for contiguous sensitive areas, such as a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in the COMAR 26.23.01.01.
12. "Buffer Management Area (BMA)" means an area officially mapped by the Town of Chesapeake City and approved by the Critical Area Commission as a BMA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the Buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific BMA provisions can be permitted in the Buffer without a variance.
13. "Buffer Management Plan" means a narrative, graphic description, or plan of the Buffer that is necessary when an applicant proposes a development activity that will: affect a portion of the Buffer; alter buffer vegetation; or require the establishment of a portion of the Buffer in vegetation. A Buffer Management Plan includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.
14. "Bufferyard" means an area at least 25 feet wide, located between development activity and tidal waters, tidal wetlands, or a tributary stream, planted with vegetation consisting of native canopy trees, understory trees, shrubs, and perennial herbaceous plants that is used in Buffer Management Areas to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.
15. "Caliper" means the diameter of a tree measured at two inches above the root collar.
16. "Canopy tree" means a tree that when mature commonly reaches a height of at least 35 feet.
17. "Cluster development" means a residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide natural habitat or other open space uses on the remainder.
18. "Colonial nesting water birds" means herons, egrets, terns, and glossy ibis. For the purposes of nesting, these birds congregate (that is "colonize") in relatively few areas, at which time, the regional populations of these species are highly susceptible to local disturbances.
19. "COMAR" means the Code of Maryland Regulations, as from time to time amended, including any successor provisions.

20. "Commission" means the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays.
21. "Community piers" means boat docking facilities associated with subdivisions or similar residential areas, and with condominium, apartment and other multiple family dwelling units. Private piers are excluded from this definition.
22. "Comprehensive or master plan" means a compilation of policy statements, goals, standards, maps and pertinent data relative to the past, present and future trends of the local jurisdiction including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities prepared by or for the planning board, agency or office.
23. "Conservation easement" means a non-possessory interest in land which restricts the manner in which the land may be developed in an effort to reserve natural resources for future use.
24. "Consolidation" means a combination of any legal parcel of land or recorded legally buildable lot into fewer lots or parcels than originally existed. An application for consolidation may include a subdivision, lot line abandonment, boundary line adjustment, replatting request, or lot line adjustment.
25. "Critical Area" means all lands and waters defined in §8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:
- (a) All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide as indicated on State wetland maps;
  - (b) All State and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;
  - (c) All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and
  - (d) Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in §8-1807 of the Natural Resources Article, Annotated Code of Maryland.
26. (26) "Density" means the number of dwelling units per acre within a defined and measurable area.
27. "Developed woodlands" means an area of trees or of trees and natural vegetation that is interspersed with residential, commercial, industrial or recreational development
28. "Developer" means a person who undertakes development activity as defined in this Program; or a person who undertakes development activity as defined in the Criteria of the Commission.

29. "Development activities" means the construction or substantial alteration of residential, commercial, industrial, institutional or transportation facilities or structures and/or the substantial alteration of the land, including the shoreline and land underwater.
30. "Disturbance" means an alteration or change to the land. It includes any amount of clearing, grading, or construction activity. Disturbance does not include gardening or maintaining an existing grass lawn.
31. "Documented breeding bird areas" means forested areas where the occurrence of interior dwelling birds, during the breeding season, has been demonstrated as a result of on-site surveys using standard biological survey techniques.
32. "Dwelling unit" means a single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. Dwelling unit includes a living quarters for a domestic or other employee or tenant, an in-law or accessory apartment, a guest house, or a caretaker residence.
33. "Ecosystem" means a more or less self-contained biological community together with the physical environment in which the community's organisms occur.
34. "Endangered species" means any species of fish, wildlife, or plants that have been designated as endangered by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the State's resources are determined to be in jeopardy. This includes any species determined to be an "endangered" species pursuant to the Federal Endangered Species Act, 16 U.S.C. §et seq., as amended.
35. "Establishment" means the planting or regeneration of native vegetation throughout the Buffer.
36. "Excess stormwater run-off" means all increases in stormwater resulting from:
37. An increase in the imperviousness or lot coverage of the site, including all additions to buildings, roads, and parking lots;
38. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
39. Alteration of drainage ways, or regrading of slopes;
40. Destruction of forest; or
41. Installation of collection systems to intercept street flows or to replace swales or other drainage ways.
42. "Financial assurance" means a performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Chesapeake City.
- a. "Fully established" means the buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

43. "Fisheries activities" means commercial water dependent fisheries facilities including structures for the parking, processing, canning, or freezing of finfish, crustaceans, mollusks, and amphibians and reptiles and also including related activities such as wholesale and retail sales product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquacultural operations.
44. "Forest" means a biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater. Forest includes areas that have at least 100 trees per acre with at least 50% of those trees having two-inch or greater diameter at 4.5 feet above the ground and forest areas that have been cut, but not cleared. Forest does not include orchards.
45. "Forest Interior Dwelling Birds" means species of birds which require relatively large forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).
46. "Forest management" means the protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, water transpiration, wildlife habitat, etc.
47. "Grandfathered parcel" or "Grandfathered lot" means a parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.
48. "Growth allocation" means the number of acres of land in the Critical Area that the Town of Chesapeake City may use to create new Intensely Developed Areas and new Limited Development Areas. The Growth Allocation is five percent of the total Resource Conservation Area acreage in the Town of Chesapeake City at the time the Critical Area Commission approved the Town's original Critical Area Program, not including tidal wetlands or land owned by the federal government.
49. "Habitat Protection Plan" means a plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located and shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the Plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the Plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.
50. "Highly erodible soils" means those soils with a slope greater than 15 percent; or those soils with a K value greater than .35 and with slopes greater than 5 percent.
51. "Historic waterfowl staging and concentration area" means an area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly during recent times.
52. **Home improvement"**
53. "Hydric soils" means soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition of growth, or both, of plants on those soils.

54. "Hydrophytic vegetation" means those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).
55. "Immediate family" means a father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.
56. "In-kind replacement" means the replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.
57. "Intensely Developed Area" means an area of at least 20 acres or the entire upland portion of the critical area within a municipal corporation, whichever is less, where: residential, commercial, institutional, or industrial developed land uses predominate; and a relatively small amount of natural habitat occurs. These areas include: an area with a housing density of at least four dwelling units per acre; an area with public water and sewer systems with a housing density of more than three dwelling units per acre.
58. "Invasive species" means a species that is non-native or alien to the ecosystem under consideration whose introduction causes or is likely to cause economic or environmental harm or harm to human health.
59. "K Value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value, that is experimentally determined.
60. "Land clearing" means any activity that removes the vegetative ground cover.
61. "Landward edge" means the limit of a site feature that is farthest away from a tidal water, tidal wetland, or tributary stream.
62. "Large shrub" means a shrub that, when mature, reaches a height of at least six feet.
63. "Legally developed" means all physical improvements to a property that existed before Critical Area Commission approval of a local Program, or were properly permitted in accordance with the provisions of the local Program in effect at the time of construction.
64. "Limited Development Area" means an area: with a housing density ranging from one dwelling unit per five acres up to four dwelling units per acre; with a public water or sewer system; that is not dominated by agricultural land, wetland, forests, barren land, surface water, or open space; or that is less than 20 acres and otherwise qualifies as an intensely developed area under the definition in this Program.
65. "Living shoreline" means a suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal process, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.

66. "Local significance" means development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Program of the Town of Chesapeake City; and is not considered to be major development as defined in this Program.
67. "Lot coverage" means the percentage of a total lot or parcel that is: occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway; or covered with a paver, walkway gravel, stone, shell, impermeable decking, a paver, permeable pavement, or other any manmade material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck, but does not include: a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the Buffer or expanded Buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.
68. "Marina" means any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other non-commercial boat docking and storage facilities.
69. "Major development" means development of a scale that may cause State-wide, regional, or inter-jurisdictional, environmental or economic effects in the Critical Area, or which may cause substantial impacts on the Critical Area Program of a local jurisdiction. This development includes, but is not limited to, airports, power plants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.
70. "Mean High Water Line" (MHWL) means the average level of high tides at a given location.
71. "Mitigation" means an action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.
72. "Native plant" means a species that is indigenous to the physiographic area in Maryland where the planting is proposed.
- a. "Natural features" means components and processes present in or produced by nature, including, but not limited to, soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.
  - b. "Natural forest vegetation" means vegetation consisting of canopy trees, understory trees, shrubs, and herbaceous plants that are typically found in riparian areas in the State of Maryland. Areas of natural forest vegetation planted to meet the mitigation requirements in this ordinance shall resemble the structure and species composition of natural forests.
73. "Natural Heritage Area" means any communities of plants or animals which are considered to be among the best Statewide examples of their kind, and are designated by regulation by the Secretary of the Department of Natural Resources.

74. "Natural regeneration" means the natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.
75. "Natural vegetation" means those plant communities that develop in the absence of human activities.
- a. Nature-dominated" means a condition where landforms or biological communities, or both, have developed by natural processes in the absence of human activities.
76. "New development" means that for purposes of implementing specific provisions of this Program, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15 percent as of December 1, 1985.
77. "Non-point source pollution" means pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage rather than by deliberate discharge. Non-point source pollution is not generally corrected by "end-of-pipe" treatment, but rather by changes in land management practices.
78. "Non-tidal wetlands" means those areas regulated under Subtitle 9 of the Environment Article that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.
79. "Offsets" means structures or actions that compensate for undesirable impacts.
80. "Open space" means land and water areas retained in an essentially undeveloped state.
81. "Palustrine" means all non-tidal wetlands dominated by trees, shrubs, persistent emergent plants, or emergent mosses or lichens and all such wetlands that occur in tidal areas where the salinity due to ocean-derived salts is below one-half part per 1,000 parts of water.
82. "Permanent disturbance" means a material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity. "Permanent disturbance" includes:
- (i) Construction or installation of any material that will result in lot coverage;
  - (ii) Construction of a deck;
  - (iii) Except under §B (18-2)(b)(iii) of this regulation, grading; and
  - (iv) Except under §B (18-2)(b)(ii) of this regulation, clearing of a tree, forest, or developed woodland.

83. "Permanent disturbance" does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.
84. "Person" means an individual, partnership, corporation, contractor, property owner, or any other person or entity.
85. "Physiographic features" means the soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.
86. "Pier" means any pier, wharf, dock, walkway, bulkhead, breakwater, piles or other similar structure. Pier does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of State or private wetlands.
87. "Plant habitat" means a community of plants commonly identifiable by the composition of its vegetation and its physiographic characteristics.
88. "Port" means a facility or area established or designated by the State or local jurisdictions for purposes of waterborne commerce.
89. "Principal structure" means the primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.
90. "Program amendment" means any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a Program refinement.
91. "Program refinement" means any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with the adopted Program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:
- A change to an adopted Program that results from State law;
  - A change to an adopted Program that affects local processes and procedures;
  - A change to a local ordinance or code that clarifies an existing provision; and
  - A minor change to an element of an adopted Program that is clearly consistent with the provisions of State Critical Area law and all the Criteria of the Commission.
92. "Project approvals" means the approval of development, other than development by the State or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

93. "Property owner" means a person holding title to a property or two or more persons holding title to a property under any form of joint ownership.
94. "Public water-oriented recreation" means shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.
95. "Reclamation" means the reasonable rehabilitation of disturbed land for useful purposes, and the protection of the natural resources of adjacent areas, including water bodies.
96. "Reconfiguration" means a change of the configuration of an existing lot or parcel line of any legal parcel of land or recorded legally buildable lot. An application for reconfiguration may include a subdivision, a lot line adjustment, a boundary line adjustment, a replatting request, or a revision of acreage to increase density.
97. "Redevelopment" means the process of developing land which is or has been developed. For purposes of implementing specific provisions of this Program, redevelopment (as opposed to new development) means a development activity that takes place on property with pre-development imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15 percent or greater.
98. "Reforestation" means the establishment of a forest through artificial reproduction or natural regeneration.
99. "Resource Conservation Area" means an area that is characterized by nature dominated environments, such as wetlands, surface water, forests, and open space; and resource-based activities, such as agriculture, forestry, fisheries, or aquaculture. Resource conservation areas include areas with a housing density of less than one dwelling per five acres.
100. "Resource utilization activities" means any and all activities associated with the utilization of natural resources such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.
101. "Restoration" means the act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.
102. "Riparian habitat" means a habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.
103. "Road" means a public thoroughfare that is under the jurisdiction of the State, a county, a municipal corporation, or any other public body. Road does include a drive aisle or driveway.
104. "Seasonally flooded water regime" means a condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.
105. "Selection" means the removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

106. "Shore erosion protection works" means those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

107. "Significantly eroding areas" means areas that erode two feet or more per year.

108. "Small shrub" means a shrub that, when mature, reaches a height no greater than six feet.

109. "Species in need of conservation" means those fish and wildlife whose continued existence as part of the State's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the requirements of Natural Resources Article §§ 10-2A-06 and 4-2A-03, Annotated Code of Maryland.

110. "Steep slopes" means slopes of 15 percent or greater incline.

111. "Structure" means anything constructed or erected on or over land that may or may not result in lot coverage. "Structure" means building or construction materials, or a combination of those materials that are purposely assembled or joined together on or over land or water. "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for the purpose of marine access, navigation, working, eating, sleeping, or recreating.

112. "Substantial alteration" means any repair, reconstruction, or improvement of a principal structure, where the proposed footprint equals or exceeds 50 percent of the existing principal structure.

113. "Supplemental planting plan" means a description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a Buffer if natural regeneration does not meet the required stem density.

114. "Temporary disturbance" means a short-term change in the landscape that occurs as part of a development or redevelopment activity. "Temporary disturbance" includes:

- (i) Storage of materials that are necessary for the completion of the development or redevelopment activity;
- (ii) Construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity, if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and
- (iii) Grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity.

115. "Temporary disturbance" does not include:

- (i) A septic system in a forest or developed woodland on a lot created before local program approval, if clearing is required; and
- (ii) A violation.

116. "Thinning" means a forest practice used to accelerate tree growth of quality trees in the shortest interval of time.
117. "Threatened species" means any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be a "threatened" species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1431 et seq., as amended.
118. "Topography" means the existing configuration of the earth's surface including the relative relief, elevation, and position of land features.
119. "Transitional habitat" means a plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.
120. "Transportation facilities" means anything that is built, installed, or established to provide a means of transport from one place to another.
121. "Tributary stream" means a perennial stream or intermittent stream within the Critical Area that has been identified by site inspection or in accordance with local program procedures approved by the Critical Area Commission.
122. "Understory" means the layer of forest vegetation typically located underneath the forest canopy.
123. "Understory tree" means a tree that, when mature, reaches a height between 12 and 35 feet.
124. "Unwarranted hardship" means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested."
125. "Upland boundary" means the landward edge of a tidal wetland or nontidal wetland.
126. "Utility transmission facilities" means fixed structures that convey or distribute resources, wastes, or both, including but not limited to electrical lines, water conduits and sewer lines.
127. "Water-based aquaculture" means the raising of fish and shellfish in any natural, open, free-flowing water body.
128. "Water-dependent facilities" means those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas and other boat docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

129. "Water-use industry" means an industry that requires location near the shoreline because it utilizes surface waters for cooling or other internal purposes.
130. "Waterfowl" means birds that frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.
131. "Wildlife corridor" means a strip of land having vegetation that provides habitat and safe passage for wildlife.
132. "Wildlife habitat" means those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

## Article 9

### Terms and Definitions

## §9.1 Rules for Defining Terms

### §9.1.1 Defined Words Have Meaning Provided

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Ordinance.

### §9.1.2 Rules

- Words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and the plural number shall include the singular number, unless the obvious construction of the wording indicates otherwise.
- The word “shall” is mandatory and not discretionary.
- The word “may” is permissive.
- The word “lot” shall include the words “piece”, “parcel” and “plots”; the word “building” includes all other structures of every kind regardless of similarity to buildings; and the phrase “used for” shall include the phrase “arranged for” and “occupied for”.
- All “measured distances” shall be to the nearest “integral foot”. If a fraction has a value of one-half foot or greater, the “integral foot” next above shall be taken.

## § 9.2 Terms and Definitions

Accessory Apartment-a separate complete housekeeping unit that is substantially contained within the structure of a single family unit or a commercial structure, but can be isolated from it.

Accessory Building -an accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) located on the same lot as the main building or principal use of the land.

Accessory Use-an accessory use is one which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Ordinance) on the same lot as the principal use of the premises. When “accessory” is used in the text, it shall have the same meaning as “Accessory Use”.

Acreage-A parcel of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision.

Activity-Any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area, or outdoors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

Alley-a narrow public thoroughfare which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

Alteration-Any change in the total floor area, use adaptability or external appearance of an existing structure.

Amend or amendments-Any repeal, modification or addition to a regulation; any new regulation; any change in the number, shape, boundary or area of a zone; or any repeal or abolition of any map, part thereof or addition thereto.

Antenna-Equipment designed to transmit or receive electronic signals.

Apartment-A part of a building containing cooking facilities and separate bathroom facilities consisting of a room or group of rooms intended, designed, and used as a residence by an individual or a single family.

Apartment House-same as “Dwelling, Multiple-Family”.

Area-Gross-all the area within a development plan or plat including area intended for residential use, local access streets or alleys, off-street parking spaces, recreation areas, or floodplains.

Arterial Road-A highway, road, or street designated as an arterial or minor arterial in the Town’s adopted Comprehensive Plan.

Automobile Filling Station-Any building, structure or area of land used for the retail sale of automobile fuels, oils, power, and accessories and where repair service, if any, is incidental.

Basement-that portion of a building between the floor and ceiling which is wholly or partly below grade and having more than ½ of its height below grade.

Bed and Breakfast Facility-a private home which is occupied by the owner of the facility in which bedrooms are rented to tourists or travelers and in which breakfast is provided and included in the room rate.

Billboard-a structure on which is portrayed information which directs attention to a business commodity, service or entertainment not necessarily related to the other uses permitted on the premises upon which the structure is located, not including painted walls.

Block-a tract of land bounded by streets, or by a combination of streets, alleys, public parks, cemeteries, shorelines or boundary lines of the Town.

Board-the Board of Appeals of the Town of Chesapeake City which is authorized with certain powers by this Ordinance including to grant special exceptions and variances and to hear appeals from administrative decisions.

Boarder-a person who is given lodging with or without food by someone in exchange for a fee.

Boarding House- an owner-occupied single-family dwelling where, for compensation and by prearrangement for definite periods, lodging, meals, or lodging and meals are provided for three or more boarders but containing no more than four guest rooms or rental units.

Building-any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

Building, Accessory-A minor building that is located on the same lot as a principal building and is used incidentally to a principal building or houses an accessory use.

Building, detached-a building surrounded by open space on the same lot.

Building, floor area of-the total number of square feet area in a building, excluding cellars, uncovered steps, and uncovered porches, but including the total floor area of accessory buildings on the same lot.

Building height-the vertical distance measured from the average elevation of the finished grades along the front of the building to either the highest point of the roof for “flat roofs” or the mean height level between the eaves and ridge of a gable, hip, mansard or gambrel roof. For the purposes of determining building height, at no point must the finished grade be higher than the pre-development grade and building height shall be measured in this way irrespective of compliance with the floodplain ordinance.

Building line-A line beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project, unless otherwise provided for in this Ordinance.

Building, Main-any building which is not an accessory building.

Building Permit-a permit issued by the Zoning Administrator or other officially authorized representative of the Town of Chesapeake City.

Building, Principal-the primary building on a lot or a building that houses a principal use.

Canopy-a roof-like structure of a permanent nature which may be free-standing or projected from a wall of a building or its supports.

Certify-whenever this Ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. This may include a certified letter, or if the Town agrees, facsimile, electronic mail, or other similar manner that will produce a “hard copy” of said certification.

Circulation Area-that portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

Civic (lot type)- pertaining to governmental and/or community related activities and uses including institutional uses and activities.

Clinic-an office building or a group of offices for one or more physicians, surgeons, or dentists, engaged in treatment of the sick or injured but not including rooms for overnight patients.

Club, Private-buildings and facilities owned or operated by a corporation, association, person, or persons, for social, educational or recreational purpose, but not primarily for profit which accrues to any individual and not primarily to render a service which is customarily carried on a business.

Collector-A highway, road, or street designated as a major collector or minor collector in the Town's adopted Comprehensive Plan.

Commission-the Planning Commission of the Town of Chesapeake City.

Commercial-a type of activity where goods or services are sold or traded with the expectation of profit or gain.

Common Area-any open space, private road or other land, structure or improvement, which is designed or reserved for the common use or benefit of the owners of two or more lots. "Common area" does not include any public road or other land, structure or improvement owned by the Town or the State of Maryland or any other governmental agency.

Comprehensive Plan/The Comprehensive Plan of Chesapeake City, Maryland-a document consisting of written and mapped information, adopted by the Mayor and Town Council, and intended to guide the physical development of Chesapeake City, including all changes and additions to the plan.

Condominium-a form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with separate interest in space in a building, such as a townhouse, apartment or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

Conservation Easement-A non-possessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

Construction, Actual-includes the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

Council-Mayor and Town Council of Chesapeake City, Maryland.

Nursing Care Institutions-a building where regular nursing care is provided for more than one person not a member of the family, who resides on the premises.

Covenant-a written undertaking by an owner which is required by this Ordinance or imposed by the Planning Commission in accordance with authorization contained in this Ordinance.

Covenanter-a person who owns legal or equitable title to any land which is affected in any manner by a covenant and includes a person who holds any mortgage, deed of trust or other lien or encumbrance on any such land.

Court-an unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

Coverage, building-the percentage of the lot covered by buildings and structures.

Critical Area-all lands and waters defined in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland. They include:

- a. All waters and lands under the Chesapeake Bay and its tributaries to the head of tide as indicated on the State Wetlands Maps, and all State and private wetlands designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland;
- b. All land and water areas within 1,000 feet beyond the landward boundaries of State or private wetlands and the heads of tides designated under Title 9 of the Natural Resources Article, Annotated Code of Maryland.
- c. Modifications to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Critical Areas Commission as specified in Section 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

Day Care Center or Day Nursery- a child boarding home, day camp, summer camp, foster home, or other place for the reception, board, or care for compensation of children under fourteen years of age. This definition shall not include public or private schools organized, operated, or approved under Maryland laws, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within the institutional building while their parents or legal guardians are attending services, activities, or meetings.

Day Care, Home-a facility operated in a residence by the owner of the residence limited to seven people, excluding residents, where care is given to children under the age of 18, or persons with physical handicaps, or persons in need of oversight because of advanced age, or mental retardation or other disability, and which routinely involves care and housing for less than 18 hours per day per person.

Dedication-the transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

Deed Restriction-a private legal restriction and/or covenant on the use of land, contained within a deed of property or otherwise formally recorded in the Land Records of Cecil County, Maryland. These restrictions or covenants are designed to control the use of specific property and enforcement of these is through private civil action. Deed restrictions are not enforced by the Town of Chesapeake City, unless it is Chesapeake City, Maryland that records said deed restrictions.

Density-the number of principal dwelling units allowed per acre of gross area of a development.

Developer-a person who is responsible for any undertaking that requires a zoning permit, conditional-use permit, sign permit, site plan, or subdivision approval.

Development or Development Activities (includes the term “develop”)-any construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in

construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land.

District-any section of the Town of Chesapeake City within which the zoning regulations are uniform.

Drive-in-A place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allows the consumption of any food or beverage obtained from a carry-out window in automobiles or elsewhere on the premises.

Driveway-that portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Duplex-a two-family residential use in which the dwelling units share a common wall (including without limitation the wall of an attached garage or porch) and in which each dwelling unit has living space on the ground floor and a separate, ground floor entrance.

Dwelling-any building or portion thereof, designed or used for residential purposes, except trailers or mobile homes.

Dwelling, attached-A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, Single-Family-a building designed for or occupied exclusively by one family.

Dwelling, Two-Family-a building designed for or occupied exclusively by 2 families living independently of each other.

Dwelling Unit-a room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone.

Dwelling, Multi-Family-a structure arranged or designed to be occupied by 3 or more families on a single parcel or on contiguous parcels under the same ownership.

Earth Satellite Antenna (also called “satellite dish” or “dish”)-a parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to receive television, radio, microwave, or other electronic signals from space satellites.

Family-one or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over 4 persons.

Farmers Market-a retail market selling predominantly locally produced fruits, vegetables, crafts, and meats.

Fence or Wall-any structure regardless of composition, except a living fence, that is erected or maintained for the purpose of , marking a boundary, enclosing an area, providing screening or privacy, restricting access or egress, or dividing a piece of land into distinct portions.

Fence Height - the distance measured from the existing grade to the top of the fence at its highest point.

Floor Area:

- a. Commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two

buildings but not including (a) space providing headroom of less than seven feet; (b) basement space not used for retailing; (c) uncovered steps or fire escapes; (d) accessory water towers or cooling towers; (e) accessory off-street parking spaces; and (f) accessory off-street loading berths.

- b. Residential buildings: the sum of the gross horizontal areas of the several floors of a dwelling measured from the exterior faces of the exterior walls.

Frontage:

- a. Street frontage: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- b. Lot frontage: the distance for which the front boundary line of the lot and the street line are coincident.

Garage, private-a garage used for storage purposes only and having a capacity of not more than 4 vehicles.

Garage, service-a building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

Garage, storage-a building, or portion thereof, designed or used exclusively for storage of motor-driven vehicles and where motor-driven vehicles are not equipped, hired, or sold.

Grandfathered-the term describes the status accorded certain properties and development activities that are of record prior to the date of adoption of this Ordinance or provisions of this Ordinance.

Golf Course-an area publicly or privately owned, on which the game of golf is played, containing at least 9 holes; together with such necessary and usual accessory uses as a club house, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

Group Home-a residential structure that is licensed as a residential care facility or child foster care facility under Maryland law to provide room, board, and supervised and/or medical care, for no more than five residents.

Halfway House-a residential structure limited to five persons that is authorized to be a facility where persons are aided in readjusting to society following a period of imprisonment, hospitalization, or institutionalized treatment.

Home Occupation-any occupation or activity, which is clearly incidental and secondary to use of the premises for dwelling and, which is carried on wholly within a main building by a member of a family residing on the premises. When within the above requirements, a home occupation includes, but is not limited to the following: (a) art studio; (b) dressmaking; (c) professional office of a physician, dentist, lawyer, engineer, architect, accountant, sales-person, real estate agent, insurance agent, or other similar occupation; (d) teaching, with musical instruction limited to 1 or 2 pupils at a time; however, a home occupation shall not be interpreted to include tourist homes, animal hospitals, child or day care centers, tea rooms, or restaurants.

Hotel-a building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient, and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public as

opposed to a boardinghouse, which is herein separately defined. A hotel may include restaurants, taverns, club rooms, banquet halls, ballrooms, and convention facilities.

Illumination-direct artificial lighting or indirect artificial lighting designed to reflect light from light sources erected for the purposes of providing light to a sign, surface, or other structure.

Impervious Surface-any surface installed on a lot that is resistant to the penetration of water.

Intermediate Care Institutions-an institutional facility licensed by Maryland law providing accommodations for more than seven persons needing medical care at a level lower than provided at nursing care institutions.

Intermittent Stream-a stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field located. Intermittent streams shall be identified in the field and accurately drawn on all development plans.

Kennel/Cattery-any establishment for the commercial breeding, boarding, grooming, sale or training of dogs and/or cats for which a fee is charged and more than 6 dogs or cats are kept on the premises.

Loading Space-a space within the main building or on the same lot, providing for the standing, loading or unloading of trucks.

Lot-an area of land separated from other areas of land by separate description in a recorded deed of plat.

Lot, Area-the total horizontal area within the lot lines of the lot.

Lot, Corner-a lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

Lot, Depth of-the mean horizontal distance between the front and rear lot lines.

Lot, Interior-a lot other than a corner lot.

Lot, Reversed Frontage-a lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

Lot Line-the boundary line of a lot.

Lot, through-an interior lot having frontage on 2 streets.

Lot Width-the distance between the side lot lines measured at the required front yard line.

Lot of Record-a parcel of land which has been legally recorded in the land records of Cecil County.

Marina and marina uses-any facility for the mooring, berthing, storing, or securing of watercraft, but not including community piers and other noncommercial boat docking and storage facilities.

Marquee-a roof-like structure of a permanent nature which projects from the wall of a building or its supports and may overhang the public way.

Motel-same as "Hotel" except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or offices.

Natural Features-components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, flood plains, aquatic life, and wildlife.

Natural Vegetation-plant communities that develop in the absence of human activities.

Neighborhood, Essential Services-any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to the individual users.

Nightclub-a commercial establishment maintained for general patronage where food and drink are served or dispensed and where either of the following is allowed (1) live, recorded or televised entrainment, and (2) dancing.

Non-Tidal Wetlands-an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation, and is determined according to the Corps of Engineers Wetland Delineation Manual, 1987, as amended.

Nursing Care Institution -an institutional facility maintained for the purpose of providing skilled nursing care and medical supervision, at a lower level than that available in a hospital, in addition to room and board.

Occupancy, Certificate of- the certificate signed by the Zoning Administrator and issued by the Cecil County Department of Permits and Inspections which permits the use of a building in accordance with approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Cecil County Building Code and this Ordinance.

Office, General-an office for the use of (a) professional people such as doctors, lawyers, accountants, etc., or (b) general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc., but not including any kind of retail or wholesale store or warehouse, except as otherwise provided herein.

Off-Street Parking Area-space provided for vehicular parking not on a street or roadway.

Open Space, Useable-that area within the boundaries of a lot that is intended to provide light and air, and is designed for either scenic or recreational purposes. Open space shall, in general, be available for entry and use by the residents or occupants of the development, but may include a limited proportion of space so located and treated as to enhance the amenity of the development by providing landscaping features, screening for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Open space may include, but not be limited to, buffers and buffer yards, lawns, decorative planting, walkways, active and passive recreation areas, children's playgrounds, fountains, swimming pools, wooded areas, and watercourses. Open space shall not include driveways, parking lots or other vehicular surfaces, any area occupied by a building, nor areas so located or so small or so circumscribed by buildings, driveways, parking lots, or drainage areas, as to have no substantial value for the purpose stated in this definition.

Outbuilding-a separate accessory building or structure not physically connected to the principal building.

Parapet-the extension of the main walls of a building above the roof.

Parking Area, Lot, or Structure-a structure, or an off-street area for parking or loading and unloading, whether required or permitted by this Zoning Ordinance, including driveways, access ways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

Parking Area Aisles-a portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

Parking, Floor Area-the floor area of a structure as defined herein less storage and warehouse areas used principally for non-public purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

Parking Space, Off-street-an all-weather surfaced area not in a street or alley exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles. At a minimum each parking space shall comprise 180 square feet.

Perennial Stream-a stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5 Minute Quadrangle published by the United States, the Cecil County Soil Survey, or field locates. Perennial streams shall be identified in the field and accurately drawn on all development plans.

Person-an individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization, or other entity acting as a unit.

Place-an open, unoccupied space other than a street or alley, permanently established or dedicated in the principal means of access to property abutting thereof.

Plot-parcel of land which may include one or more platted lots occupied or intended for occupancy by a use permitted in this Ordinance including one main building together with its accessory buildings; the yard areas and parking spaces required by the Ordinance and having its principal frontage upon a street or upon an officially approved place.

Premises-a lot, together with all buildings and structures thereon.

Property Lines-The lines bounding a lot as defined herein.

Pub- an establishment used primarily for the serving of liquor by the drink to the general public, and where food is regularly served as part of the fare.

Public Way-any sidewalk, trail, street, alley, highway, or other public thoroughfare.

Public Water and Sewerage Systems-water or sewerage system owned and operated by a municipality or county or an authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

Public Utilities-Uses or structures for the public purpose of power transmission and distribution (but not power generation); natural gas transmission and distribution (but not manufacture or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities; radio and television facilities (not including broadcasting studios); and rail or road rights-of-way (not including stations or terminals).

Recreation Facility-a place designated and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Redevelopment-the process of developing land that is or has been developed.

Regulations-the whole body of regulations, text, charts, tables, diagrams, maps, standards, notations, references, and symbols, contained or referred to in this Ordinance.

Residence, Multi-Family-a residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch) (e.g. townhouses and apartments).

Residence, Primary with Accessory Apartment-a residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25 percent of the gross floor area of the building nor more than a total of 750 square feet.

Resort-a building or group of buildings containing guest rooms on a site, a large portion of which is devoted to recreational activities such as tennis, horseback riding, swimming, golf. A resort may furnish services customarily furnished by a hotel including restaurants, taverns, and convention facilities.

Restaurants:

- a. Restaurant, standard-A food serving establishment whose principal business is the sale of food and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground or park, operated solely for the convenience of its patrons shall not be considered a restaurant.
- b. Restaurant, fast food-an establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.
- c. Restaurant, drive-in or drive-thru-any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-thru window or while parked.

Retail Shops-stores selling one kind or various kinds of goods, as distinct from services, such as, but not limited to, drug stores, grocery stores, department stores, camera shops, book stores, and record shops.

Right-of-Way-a strip of land designated for the use of a road, highway, driveway, alley or walkway, or for any drainage or public utility purpose or other similar uses.

Satellite Dish (Receive-Only Earth Station)-a device or instrument, designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to twelve feet in diameter, in the shape of a shallow dish or parabola.

Seat-for the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated, or each 24 lineal inches of benches, pews, or space for loose chairs.

Setback-the minimum required distance between the point where any structure or use on a lot meets the ground surface and any lot line or boundary of a Town or State road right-of-way.

Shed-a portable, non-permanent structure, installed without footers, used for the storage of items such as gardening equipment or home repair tools and supplies.

Sight Visibility Triangle-a triangular space provided across all property corners created by either the intersections of two streets or the intersection of a driveway and a street. It is determined by drawing a diagonal line across the corner of the lot measured from two points drawn twenty five feet back from the street or driveway intersection with the street.

Sign-a structure or device, in whole or part, which uses symbolic representations to direct attention to, identify or advertise any activity, person, group of people or thing.

Sign Height, maximum sign-the distance from the top of the sign to the unfinished grade of the ground at the base of the sign. For freestanding (monument signs), the height includes the base of the sign.

Sign, Internally lighted-a sign that produces light within itself and includes signs that consist of, in whole or in part, exposed glass tubing containing either neon, argon, or other material, regardless of whether the exposed glass material is located inside the window of the use or outside the use to which it refers.

Sign, Temporary sign- any sign which has for its purpose the advertising, announcement or display of information pertaining to an event, condition or situation that is intended to be limited in scope, duration, or time, including, but not limited to, commercial sales events, concerts, plays, on-premise real estate advertisement, on-premise advertisement of contractor lawfully engaged at site, and other commercial or cultural events.

Sign, Portable sign-a sign that is easily and conveniently transported or capable of being carried or move about.

Site Plan-a drawing or plat which describes and locates required improvements of a development tract.

Special Events-circuses, fairs, carnivals, festivals, or other types of special events that (a) run for longer than one day but not longer than two weeks, (b) are intended to or likely to attract substantial crowds, and (c) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

Special Exception-permission by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which if controlled as to number, area, location, or relation to the neighborhood, would comply with the purpose and intent of this Ordinance.

State Tidal Wetland-any land under the navigable waters of the State below the mean high tide, affected by the regular rise and fall of the tide. Tidal wetlands of this category which have been transferred by the State by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred.

Steep Slopes-any slope with a grade of 15 percent or more.

Storage-the keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than 2.5 tons gross vehicle weight which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

Stormwater Management- for quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land; and for qualitative control, a system of vegetative, structural, and other measures that reduce or eliminated pollutants that might otherwise be carried by surface runoff.

Story-that portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it' or if there be no floor above it, then the space between such floor and the ceiling next above it.

Story, Half-a space under a sloping roof at the top of the building, the floor of which is not more than 2 feet below the plate, shall be counted as a half-story when not more than 60 percent of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

Street-a public thoroughfare which affords the principal means of access to property abutting thereon.

Street Line-a dividing line between a lot, trace, or parcel of land and a contiguous street.

Structure-anything, other than a fence or retaining wall 6 feet or less in height, constructed or erected which requires location on the ground or attached to something having a location on the ground, including but not limited to signs, mobile homes, and pre-fabricated homes. Pre-fabricated homes include factory preassembly of standardized building parts, or the shipment of component building sections for permanent installation on a site. Prefabricated homes do not include mobile homes in which mobility, or the ready means of reactivating mobility, remains an integral feature of the trailer.

Structural Alterations-any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, girders, or any substantial change in the roof or in the exterior walls.

Subdivision-the division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future).

Subdivision, Major-any subdivision other than a minor subdivision.

Subdivision, Minor-a subdivision that does not involve any of the following: (a) the creation of more than a total of four lots; (b) the creation of any new public streets, (c) the extension of a public water or sewer systems, or (d) the installation of drainage improvements through one or more lots to serve one or more other lots.

Tavern-an establishment used primarily for the serving of liquor by the drink to the general public, and where food or packaged liquors may be served or sold only as an accessory to the primary use. Also called a bar or lounge.

Television or satellite dish-a device or equipment used for the receiving of television or radio programming which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

Temporary Structure Incidental to Construction-a structure (a) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or (b) located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed, or (c) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one month of resolution of the situation which prompted their need.

Tidal Wetlands-all State and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean to a distance of 3 miles offshore of the low water mark.

Topography-the existing configuration of the earth's surface including the relative relief, elevations, and position of land features.

Tourist Home-a private, owner-occupied home in which bedrooms are rented to tourists or travelers.

Tower-any structure whose principal function is to support an antenna.

Townhouse-a single-family dwelling forming one of a series of three or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof, and having roofs which may extend from one such dwelling unit to another.

Tract-a lot (see definition). The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one “tract” is subdivided into several “lots”.

Tree-a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

Use-the purpose or activity for which land or any building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, permitted-a use which may be lawfully established in a particular district or districts provided it conforms to all regulations, requirements, and standards of such district.

Use, Principal-a use listed in the Table of Permissible Uses.

Utility Facilities-Community or Regional-all utility facilities other than neighborhood facilities.

Utility Facilities, Neighborhood-utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

Utility Transmission Facilities-fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electric lines, water conduits, and sewer lines.

Variance-a modification only of bulk or area requirements in the Chesapeake City Zoning Ordinance where such modifications will not be contrary to the public interest and where owing to conditions peculiar to the property, and not the results of any action taken by the applicant, a literal enforcement of the ordinance would result in unnecessary hardship.

Warehouse-a structure used for the storage and/or the sale of products at wholesale, and where the sale of a product at retail is incidental.

Yard-an open space other than a court, on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this Ordinance.

Yard, Front-a yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the terraces, or uncovered porches.

Yard, Rear-a yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, un-enclosed porches or entrance-ways.

Yard, Side-a yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

Zoning District-an area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions and other requirements are established.

Zoning Administrator-the zoning administrative officer or an authorized representative designated by the Town Council to carry out duties as specified in this Ordinance. In the absence of an appointed Zoning Administrator, these duties are assumed to be the responsibility of the Town Manager.

Zoning Permit-a written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this Ordinance, and for the purpose of carrying out and enforcing its provisions.